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African American Males and the Incarceration Problem

Not Just Confined to Prison

As long as Nina could remember, the prison system held uncles and cousins and grandfathers and always her father. Nina, like Toney and Lolli, was raised in the inner city; for all three, prison further demarcated the already insular social geography. Along with the baby showers of teenagers, they attended prisoners' going-away and coming-home parties. Drug dealing and arrests were common on the afternoons Nina spent playing on the sidewalk as she and her parents hung out with their friends. People would be hauled away, while others would unexpectedly reappear, angrier or subdued. Corrections officers escorted one handcuffed cousin to Nina's great-grandmother's funeral; her favorite uncle had to be unshackled in order to approach his dying grandmother's hospital bedside. The prison system was part of the texture of family life.

—LeBlanc (2003)

Corporations that appear to be far removed from the business of punishment are intimately involved in the expansion of the prison industrial complex.

—Davis (1998), p. 16

Jails and prisons are designed to break human beings, to convert the population into specimens in a zoo—obedient to our keepers, but dangerous to each other.

—Davis (2003), p. 23

Dear Sister:

One might have hoped that, by this hour, the very sight of chains on Black flesh, or the very sight of chains, would be so intolerable a sight for the American people, and so unbearable a memory, that they would themselves spontaneously rise up and strike off the manacles. But, no, they appear to glory in their chains; now, more than ever, they appear to measure their safety in chains and corpses. And so, Newsweek, civilized defender of the indefensible, attempts to drown you in a sea of crocodile tears (“it remained to be seen what sort of personal liberation she had achieved”) and puts you on its cover, chained. You look exceedingly alone—as alone, say, as the Jewish housewife in the boxcar headed for Dachau, or as any one of our ancestors, chained together in the name of Jesus, headed for a Christian land. . . . If we know, then we must fight for your life as though it were our own—which it is—and render impassable with our bodies the corridor to the gas chamber. For, if they take you in the morning, they will be coming for us that night.

—Baldwin (1971), pp. 19, 23

Objectives

- Examine the rate of incarceration and growth of prisons in the United States over the past century.
- Examine the demographics of the prison, particularly in terms of race and gender, including the rise in the incarceration of mothers and the special issues this creates for women but also for African American families.

- Examine the various ways in which prisons have entered the global economy with goods for sale on the world market.
- Examine the impact of incarceration on African American family life and African American communities.
- Examine the relationship between felony records and employment and other rights (housing, welfare, and voting).
- Examine the links between incarceration and other issues addressed in this book: employment, poverty, health, family life, and intimate partner violence.
- Identify solutions to the “incarceration addiction”¹ in America.

Introduction

In this book, we have already discussed some of the most pressing issues facing African American civil society. In our discussions of family formation, health (HIV/AIDS), employment, and intimate partner violence (IPV), we have made references to the role of incarceration in shaping those problems. African American women remain unmarried, raising their children alone in part because the fathers of their children are in prison. African American men are contracting HIV/AIDS in prison and dying there, or, upon release, they are bringing HIV/AIDS back into the communities from which they came, infecting their female partners along the way. A criminal record makes it difficult to find employment, and one of the major risk factors for IPV is male unemployment. We are not arguing in this chapter that incarceration is the root of all of these problems, but we are noting that incarceration is a key piece of the web of entanglement that traps many African American men and women in a life of struggle, poverty, ill health, violence, and limited life chances.

Definitions

The U.S. prison population, incarcerated in all types of institutions from county jails to the new supermax prisons, has grown exponentially. We acknowledge that one of the most confusing aspects of writing and reading about prisons are the distinctions in various kinds of institutions. These distinctions, although common parlance for those who work directly in the criminal justice system, are often a bit hazy for the rest of us. Therefore, we begin with a few definitions. In this chapter, we tend to use the term *prison* as shorthand for a variety of types of institutions. But it is important for the reader to be able to distinguish the different kinds of incarceration institutions that are present in the contemporary United States.

Jails. Jails are administered at the county level. Jails exist to fill three primary functions. Jails hold inmates who (a) are awaiting trial and either

cannot make bail or have been denied bail; (b) are required to make a court appearance for any reason—this is because jails are connected to court-houses, whereas prisons generally are not; and (c) are serving sentences of 364 days (1 year) or less.

Prisons. Prisons are administered at both the state and federal level. State prisons hold inmates who (a) are convicted of state crimes² *in that state*; (b) have sentences of more than 1 year; and (c) are of all custody levels: minimum, medium, maximum, and death row (if the state has the death penalty). Some facilities hold all custody levels in the same prison, and others house only one or two custody levels in the same facility. Federal prisons hold inmates who are convicted of federal crimes. Inmates may be housed in any state that has an appropriate federal prison.³

Private Prisons. Private prisons are administered by corporations. The largest, Corrections Association of America (CAA), trades on the New York Stock Exchange. In 2005, CAA's total revenues were \$1.2 billion. Private prisons incarcerate inmates with sentences longer than 1 year but who are convicted of either state or federal crimes. Private prisons are essentially a "leasing" system whereby states that have fewer prison beds than they need can ship prisoners to other states for the term of their sentences. Most private prisons are in the economically depressed South and Southwest regions of the country. Most of the inmates who are shipped out of state come from states in the Northeast and the Midwest.

Supermax Prisons. The supermax prison is relatively new and houses two main types of inmates: high-profile inmates who pose a serious security risk, and those who have exhibited such serious disciplinary problems that this is the "end of the line" for them. For example, the supermax prison in Florence, Colorado, is home to the September 11th terrorist Zacharias Moussaoui and Oklahoma City bomber Terry Nichols.

In this supermax prison, 1,500 inmates are locked two to a cell for twenty-three hours a day in a space measuring 14 feet by 8 1/2 feet. The only time they will leave their cells will be for "recreation" alone in an attached outdoor "kennel" half the size of the cell. Food is pushed through slots in the door, and the only human interaction an inmate has is with his "roomie." (Wray, 2000, p. 16)⁴

Prisons as Total Institutions

Every American interested in the U.S. prison system should read the explosive text by Russian author Aleksandr Solzhenitsyn (1973/2002) titled *The Gulag Archipelago*.⁵ This book reveals how similar the U.S. prison system is to the gulag. It is, in fact, a mirror image of the U.S. prison system in all of its details. American prisons are horrible places. They resemble the *worst* in

“total institutions” described brilliantly by Goffman (see McCorkel, 1998), who developed the term based on his participant observation⁶ in a mental hospital. He defined the term as follows:

Their encompassing or total character is symbolised by the barrier to social intercourse with the outside and to departure that is often built right into the physical plant, such as locked doors, high walls, barbed wire, cliffs, water, forests, or moors. (Goffman, 1961, p. 227)

A basic social arrangement in modern postindustrial society (as compared to agricultural economies) is that individuals tend to sleep, play, and work in different places with different co-participants, under different authorities, and without an overall rational plan. *The central feature of total institutions can be described as a breakdown of the barriers ordinarily separating these three spheres of life.* Goffman (1961) identifies four specific features of total institutions:

First, all aspects of life are conducted in the same place and under the same central authority.

Second, each phase of the member’s daily activity is carried on in the immediate company of a large batch of others, all of whom are treated alike and required to do the same thing together.

Third, all phases of the day’s activities are tightly scheduled, with one activity leading at a prearranged time into the next, the whole sequence of activities being imposed from above by a system of explicit formal rulings and a body of officials.

Finally, the various enforced activities are brought together into a single rational plan purportedly designed to fulfill the official aims of the institution.

Thus, we argue that although prison experiences vary widely by type of institution, length of incarceration, custody status, and so on, any period of incarceration significantly shapes the individuals who are incarcerated, and these experiences shape the social relations of inmates both during incarceration as well as during re-entry into the free world.

The Growth of Prisons: Institutions and Population

The number of prisons has grown, as has the number of Americans incarcerated (see Figure 9.1). In 2005, more than 2.3 million⁷ Americans (or 0.7% of the U.S. population) were incarcerated, in nearly 1,700 state, federal, and private prisons, with many more under other forms of custodial

238 African American Families

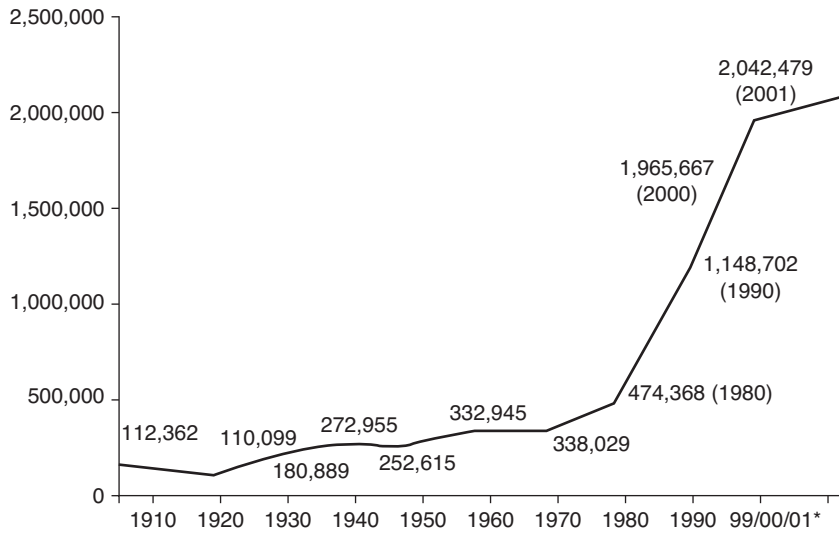


Figure 9.1 Growth of Prisons

SOURCE: Justice Policy Institute analysis of U.S. Department of Justice Data.

*1999, 2000 and 2001 are Bureau of Justice Statistics estimates of what could be the year end totals.

supervision, including probation and parole. (A table that details the size, number of inmates, staff ratios, and so on for all state, federal, and private prisons is available in Appendix I.)

Furthermore, despite the fact that we think of certain other countries as being dominated by incarceration, in relative terms, compared to other countries, the United States incarcerates a higher proportion of its population than all other developed countries and many in the developing world (see Table 9.1).

The Role of Drug Laws in the Growth of Prisons

Why do we incarcerate so many of our citizens? There are many answers to this question, and we will be exploring a variety of them throughout this chapter. However, the most straightforward answer is the changes in drug laws (Western, 2006). In summary, the “War on Drugs” officially began in 1972 with a formal announcement by President Richard Nixon. The War on Drugs officially heated up under the administration of President Ronald Reagan, who added the position of “Drug Czar” to the President’s Executive Office. The War on Drugs was not so much about criminalizing substances, because that had been happening across the early part of the 20th century.

Table 9.1 Incarceration Rates for Selected Countries

<i>Country</i>	<i>Incarceration Rate</i>
United States	702
Russia	628
South Africa	400
England and Wales	139
Spain	125
China	118
Canada	116
Australia	112
Italy	100
Netherlands	93
Germany	91
France	85

NOTE: Incarceration rates are the number of incarcerated persons per 100,000 population.

What it did do was put into place stiffer sentencing guidelines that required (a) longer sentences, (b) mandatory minimums, (c) moving some drug offenses from the misdemeanor category to the felony category, and (d) instituting the “Three Strikes You’re Out” policy (Mauer, 2003; Roberts, 2004).

Longer Sentences Today, most of the crack cocaine defendants receive an average sentence of 11 years (King & Mauer, 2006).

Mandatory Minimums The most frequently cited example is the sentencing guidelines for possession of crack cocaine. As part of the War on Drugs, a conviction of possessing 5 grams of crack now mandates a 5-year minimum sentence (Meierhoefer, 1992).

Felonizing Drug Offenses Small possession convictions, particularly of crack cocaine, were recategorized from misdemeanors to felonies in the 1986 Drug Abuse Act (this distinction is important for both “Three Strikes You’re Out” and bans that we will discuss later in the chapter; King & Mauer, 2006).

“Three Strikes You’re Out” This law allows for life sentences for convicts receiving a third felony conviction. Coupled with the recategorizing of some drug *possession* offenses (i.e., crack cocaine) as felonies, the result has been that many inmates serving life sentences are there for three drug possession offenses; in effect, they are serving life sentences for untreated addiction (Haney & Zimbardo, 1998).

One of the clearest outcomes of these changes in drug sentencing is the rapid increase in the number of inmates (recall the data in Figure 9.1). Along with the increase in the number of inmates has been the rise in the number of prisons built to house them.

Again, we use an international comparison in order to contextualize the situation in the United States. Currently, 450,000 of the more than 2 million inmates (45%) in state and federal prison are incarcerated for nonviolent drug offenses. In contrast, this is more people than the European Union—an entity with a population of 100 million more people than the United States—has in prison for *all crimes combined*. States and the federal government continue to spend about \$10 billion a year imprisoning drug offenders, and billions more on the War on Drugs, and these costs do not include the impact that incarceration has on the economic and social life of the country, individual states, and communities. In addition, because inmates incarcerated for nonviolent drug offenses are disproportionately likely to be African American, the impact on the African American community is devastating (Roberts, 2004). What this means is that young men (and increasingly women⁸) now have a higher chance of landing in jail at some point in their adult years than ever before.

As with any accumulation of disadvantage, such as the steep rise in incarceration for African American men, comes an accumulated advantage for someone else. For example, whites, implicitly or explicitly, benefit from the sending of hundreds of thousands of African American men to prison. One big advantage that can be measured empirically is that these high levels of incarceration effectively remove these men from the competitive labor force, and upon release, they are disenfranchised in the political system. Thus, whites can hoard jobs and political power for themselves.

Second, advantage can accrue to communities. For example, the prison boom, in terms of both the number of prisons built and the escalating numbers of citizens sent to prison, as well as the locating of prisons in deindustrialized communities and rural communities is an economic advantage that accrues to whites in the form of jobs—as prison staff—and in terms of building contracts and other services that are necessary when a town builds a prison. These advantages by and large do not accrue to African American communities.

Furthermore, the prison boom is devastating to the lives of individual African Americans, but perhaps more serious is the effect on the African American community. Later in this chapter, we will explore both the individual outcomes of incarceration and its effect on the African American community, with specific attention to the loss of various forms of capital—physical, human, and social—within these communities.

The Purpose of Prison: Rehabilitation or a Tool of Capitalism?

Interestingly, whereas prisons used to be hidden institutions, tucked away in the backwaters of American society, today they are found everywhere. This deliberate implementation over the past two decades of sentencing policies designed to lock up more and more people can be interpreted as society using prisons as catchments for the undesirables in our society.⁹ Wisconsin sociologist Professor Erik Olin Wright (1997) put it thus:

In the case of labor power, a person can cease to have economic value in capitalism if it cannot be deployed productively. This is the essential condition of people in the "underclass." They are oppressed because they are denied access to various kinds of productive resources, above all the necessary means to acquire the skills needed to make their labor power saleable. As a result they are not consistently exploited. Understood this way, the underclass consists of human beings who are largely expendable from the point of view of the logic of capitalism. Like Native Americans who became a landless underclass in the nineteenth century, repression rather than incorporation is the central mode of social control directed toward them. Capitalism does not need the labor power of unemployed inner city youth. The material interests of the wealthy and privileged segments of American society would be better served if these people simply disappeared. However, unlike in the nineteenth century, the moral and political forces are such that direct genocide is no longer a viable strategy. The alternative, then, is to build prisons and cordon off the zones of cities in which the underclass lives. (p. 153)

According to Wright, prisons can be seen as a form of modern-day genocide, a strategy for removing unwanted, unnecessary, nonuseful members of a capitalist society. It is a system whereby the privileged can segregate or cordon off these unwanted members of society without the moral burden of genocide. It is easy to see how prisons accomplish this goal: They remove individuals from society, and they permanently (in many states) disenfranchise them from the political realm. Prisoners and ex-convicts become virtual noncitizens, unable to challenge the economic, social, or political power structures. And the very fact of cordoning off some individuals means that the goods and riches of society are accessible only to those citizens who are *not* cordoned off, who benefit from the consequent limits on competition for power. As Zinn and Dill (2005) note, every system of oppression has as its reflection a system of privilege: That which cordons off some, cordons in others.

We note here that many first-time readers of Wright interpret his comments as suggesting that he is advocating the cordoning off of poor, primarily African American citizens, those with few skills that can be used by

capitalism, from the opportunity structure. Nothing could be further from the truth. As a neo-Marxist, Wright is arguing that this desire to rid society of individuals who have no skills to contribute to the insatiable and ever-expanding capitalist machine resulted in genocides such as that of the Native Americans in our own country and the Jews in the Holocaust. Today, with genocide being deemed morally objectionable, capitalism seeks new ways in order to accomplish this same goal. Wright argues that in the United States, prisons have provided a mechanism to meet this goal.

The Demographics of the Prison Population: Gender and Race

In the largest context, this chapter is about the effort by academics to rethink the race issue in rising imprisonment in the United States. As we show above, the prison system has, on many measures, grown in the past two decades. In this section, we examine the demographics of the prison population: a story of race and gender. We begin with the more obvious variable: gender.

Gender

Across all of U.S. history, and this holds globally as well, men are far more likely to be incarcerated than are women. Depending on the type of facility, women constitute 6%–10% of the prison population, or of the 2.6 million Americans who are incarcerated, 150,000 or so are women. The probability that a woman will be incarcerated in her lifetime is 11/1,000 or 1.1% (Bureau of Justice Statistics, n.d.; Harrison & Beck, 2005). The incarceration of women raises special issues that are not required in the incarceration process for men. As a result, jails and prisons are sex segregated. Typically, jails house both men and women who are segregated by unit or floor. In most states, prisons are segregated by institution; in other words, there are men's prisons and women's prisons.

Gender differences in incarceration are primarily related to reproductive health, childbearing, and childrearing. For example, the practices at our local jail, which are typical (Liptak, 2006; Rogers, 2000), involve special procedures for pregnant inmates; nationally, 6% of all women entering prison are pregnant (Rogers, 2000). In an interview with prison specialist Mr. Steven Dobson, Forsyth County, North Carolina Detention Center, we learned that when a pregnant woman enters the final stages of labor, she is transported by ambulance, shackled and with leg irons, to the local birthing unit. She remains shackled while the baby is delivered, and as soon as she is

cleared out of recovery, she is transported back to her cell in the Forsyth County Detention Center. When we inquired about the baby, we learned that the baby is immediately taken into foster care by either a relative or a foster family and is under the supervision of Child Protective Services and the Department of Social Services.

It is critically important to note that there is wide variation in the treatment of female inmates. This is in large part because there are very few federal or state laws that set policy for the treatment of pregnant inmates or their children. For example, Liptak (2006) reports that only two states, New York and Illinois, have laws that prohibit the shackling of inmates during labor and delivery. Some counties and states have informal policies that recommend that inmates not be shackled during labor and delivery, but others require it.

Many people wonder about the justification for shackling women during labor and delivery.¹⁰ Britton (2004) argues that the policy or practice of shackling women while they are laboring and delivering arises out of the practice of shackling male prisoners any time they are transported, such as to court or to a local hospital, a practice that is consistent with the “sameness” debate that infuses not only feminism but also the theoretical debates in the area of criminal justice. Furthermore, the explicit justification for shackling women during labor and delivery is that because they are being transported during that experience, they pose a flight risk (Britton, 2004; Liptak, 2006). Liptak (2006) notes that shackling during labor and delivery poses a health risk to both the mother and the baby.

What is important for our discussion here is the fact that more and more women are being incarcerated, and thus, jails and prisons are finding that they have more and more gender issues to address. With no national policies on the treatment of mothers or their minor children, the practices vary tremendously, but many of the practices leave both mother and baby at risk for health problems and even death. Later in the chapter, when we consider the effects of incarceration on the African American family, we will return to a discussion of what may be the biggest tragedy of all: the children left behind.

Race

Of the 2.6 million Americans who are incarcerated, one million (43%) are African American men. In other words, more than 40% of *all* American prisoners, men and women, are African American *men*. Controlling for gender, African Americans comprise nearly two thirds (62%) of the male prison population, yet they make up just 13% of the U.S. male population (Roberts, 2004; see Figures 9.2 and 9.3).

244 African American Families

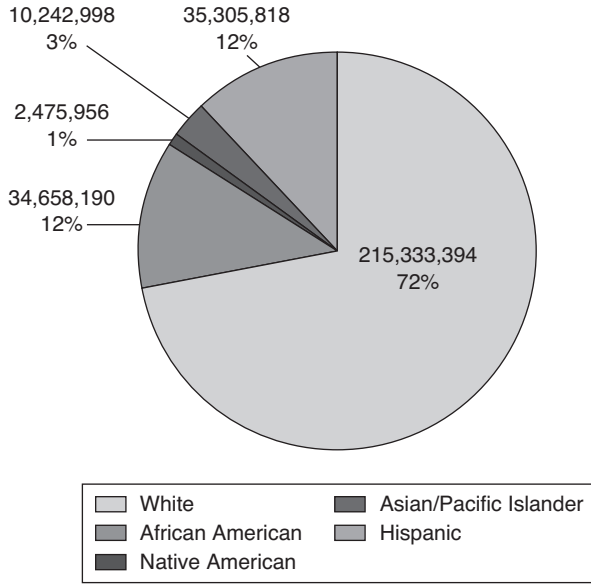


Figure 9.2 The U.S. Population by Race, 2005

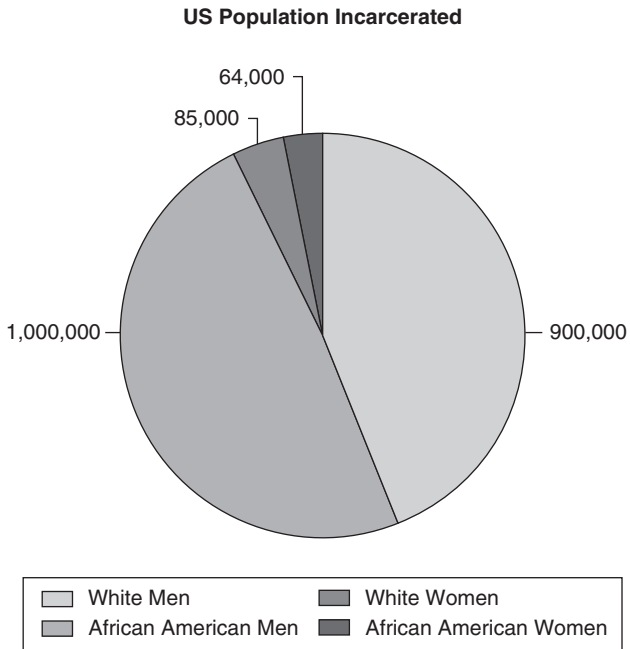


Figure 9.3 Prison and Jail Inmates by Race and Gender

SOURCE: Harrison and Beck (2005).

In terms of probability, 90 out of every 1,000 men in the United States will be incarcerated in their lifetimes. When we break down the data by race, only 44 out of every 1,000 (4%) white men will be incarcerated, but 285 out of every 1,000 (28.5%) African American men will be incarcerated in their lifetimes¹¹ (Harrison & Beck, 2005). Put another way, *nearly 1 in 3 African American men will be incarcerated during their lifetimes*.¹² (See Appendix J for probability statistics by race and gender.)

Explaining Racial Disparities in Incarceration

The data on incarceration are clear. African American men and women have much higher rates of incarceration than any other racial/ethnic group, especially when compared to the rates for white Americans (Cose, 2000; Roberts, 2004). There are many beliefs, myths, and stereotypes that are invoked to explain these differences. We will briefly discuss some of the explanations for these racial disparities, noting that entire volumes are devoted to this issue (see especially Elsner, 2006; Western, 2006).

African Americans Commit More Crime African Americans do commit certain crimes more often than whites. For example, as we noted in Chapter 6, homicide is now one of the leading causes of death for African American men. And the data on homicide indicate that, more often than not, the perpetrator in these homicides is also African American. In fact, an examination of the data on all violent crimes (rape, homicide, assault) demonstrates that violent crimes are primarily intraracial; in other words, both the victim and the offender are of the same race (LaFree & Drass, 1996). However, when one examines the range of crime statistics, one finds that just as African Americans are disproportionately likely to commit certain crimes (homicide), whites are disproportionately likely to commit others. Although some of these are nonviolent, financial crimes like those of which executives such as Martha Stewart, Bernard Ebbers (WorldCom), Dennis Kozlowski (Tyco), and Kenneth Lay (Enron) were convicted, these crimes harm millions of Americans who have lost their pensions, their paychecks, their health insurance, and indeed their livelihood. But whites are also more likely to be serial murderers, child molesters, and school shooters. In fact, the primary demographic description of the perpetrators in these horrible crimes is not just white, but male. White men commit these crimes at disproportionate rates. Furthermore, our analysis suggests that child molesters, who are primarily white men, serve shorter average sentences than crack offenders, who are primarily African American men. Child molesters serve an average of 6 years and only 43% of their full sentences, whereas the average inmate

servicing a sentence for possession of crack serves 11 years and 80% of his or her sentence. Thus, the racial gap in incarceration rates cannot be explained entirely by racial differences in the rate of committing crime. Part of the incarceration rate is driven by differences in sentencing that keep certain people in prison for longer periods of time than others.

Racial Profiling Over the past decade or so, significant attention has been paid to the catch-all category of "racial profiling." Typically, racial profiling refers to the targeting of African Americans; Hispanics; and, since the tragedy of September 11th, Middle Easterners, in "pulling over" a person for no apparent reason, searching private property such as a car or home, and arrest. Anecdotal evidence suggests that since September 11th, non-whites are more likely to be subjected to more extensive searches in airports and train stations. But the most reliable data come from the Bureau of Justice Statistics. Beginning in the mid-1990s, the law required that local law enforcement agencies collect data on the race, ethnicity, and gender of all people involved in traffic stops. The latest report, released in April 2005, noted that there were no racial differences in the probability of being stopped, but that African Americans (and Hispanics) were more likely to be subjected to "forced search" of their cars and more likely to have "force used against them" (Lichtblau, 2005, p. A14). The relationship between racial profiling and racial disparities in incarceration is significant and clear. Part of the higher rate of incarceration for African Americans is a direct outcome of the higher probability that they will be searched, arrested, and charged with a crime. Furthermore, we note that the discussion of racial profiling is politically charged. In August 2005, the director of the Bureau of Justice Statistics, Lawrence Greenfeld, was *fired* over a dispute regarding their research on racial profiling. The Bush administration did not want data on racial profiling released and sought to repress it. When Greenfeld refused to suppress this important information, he was fired (Lichtblau, 2005). Thus, the business of racial profiling and its relationship to incarceration is a hot-button issue for American politicians.

Sentencing Disparities Along with differences in traffic stops and arrest, there is also substantial evidence to support the argument that African Americans receive stiffer sentences than their white counterparts who commit the same crime. Among persons convicted of drug felonies in state courts, whites were less likely than African Americans to be sent to prison. A report by the U.S. Department of Justice on sentencing in state courts found that 33% of convicted white defendants received a prison sentence whereas 51% of African American defendants received prison sentences (Durose & Langan, 2001). In addition, in a review of 40 recent and methodologically sophisticated studies investigating the link between race

and sentence severity, many of the studies, especially at the federal level, found evidence of direct discrimination against minorities that resulted in significantly more severe sentences for African Americans than their white counterparts (Spohn, 2000). Therefore, we conclude that part of the explanation for differential rates in incarceration is racial disparities in sentencing. More African American men are in prison than their white counterparts because when they are convicted of the same crime, they are more likely to receive prison sentences (Durose & Langan, 2001) and more likely to receive longer, more severe sentences (Spohn, 2000). One of the most egregious cases that received a lot of attention recently is that of Wilbert Rideau. Wilbert Rideau was released in 2005 after serving 40 years of a life sentence for murder at Angola (the Louisiana State Penitentiary). His case is interesting in that he has been so successful as a writer and spokesman on prisons that he has been allowed to travel (chaperoned by armed guards, of course) to speaking engagements. He was released in 2005 after lawyers agreed that he had served *twice* the sentence that a similarly situated white convict would serve in Louisiana.

The Relationship Between Ideology and Incarceration Those who defend racial profiling note that if African Americans are more likely to commit crime, then it makes sense for law enforcement agents to target African Americans with surveillance, police presence, and traffic stops. Unfortunately, in some cases, the targeting or treatment of a population is based more on myths or stereotypes about that racial/ethnic population than on empirical evidence. In other words, the hegemonic ideologies around race and crime are so powerful that they create perceptions about African Americans and crime that significantly influence the behavior of whites reporting crime, identifying suspects, and, in the case of police officers, engaging in racial profiling.¹³ We illustrate our point here with two very different examples.

African American Mothers Are Crackheads As we noted in Chapter 8, one of the prevalent stereotypes of poor African American women is that they are addicted to both welfare and crack (Edin & Lein, 1997; Seccombe, 1998), and as a result, they are treated more harshly by social service agencies and the criminal justice system when they do use drugs. Thus, stereotypes such as this are powerful in shaping the kinds of behavior that affect the overall incarceration rates of African Americans and whites. (We refer the reader back to our lengthy discussion of this stereotype in Chapter 8.)

Our second example is based on a long-standing myth of the unregulated nature of African American male sexuality. Angela Davis refers to this as the "myth of the black rapist" (Davis, 1983). Davis argues that this myth led to a widespread belief that African American men were propelled toward the desire to rape white women. Because whites believed that African American

men wanted to and could rape white women, the protection of white women fell to white men. It was a duty that they took seriously. Thousands of African American men were accused of raping white women, but they were lynched by mobs long before they were ever tried in court (Apel, 2004). The power of this accusation without the requirement of evidentiary support provided the justification for the vast majority of the lynchings of 10,000 African American men during the period from 1880 to 1930 (Apel, 2004; Davis, 1983). We argue that this myth of the black rapist persists, it contributes to the incarceration of African American men, and it is the primary reason for the high rate of false rape convictions that African American men experience.

We argue that it is not simply that white Americans are more likely to mistake one black person for another, but it is also an outcome of the long-held myth of the black rapist. As stated, although only 10%–15% (Bureau of Justice Statistics, 2003b) of all rapes are perpetrated by an African American man on a white woman, because this scenario matches the myth, African American men are more likely to be accused, charged, and convicted than are their white counterparts, who account for 70% (Bureau of Justice Statistics, 2003b) of the rapes of white women. Thus, ideologies about crime and offenders affect the incarceration rate.

The racial mix of those exonerated, in general, mirrors that of the prison population, and the mix of those exonerated of murder mirrors the mix of those convicted of murder. But whereas 29% of those in prison for rape are black, *65% of those exonerated of the crime are*. Interracial rapes are, moreover, uncommon. Rapes of white women by black men, for instance, represent less than 10% of all rapes, according to the Justice Department. But in *half* of the rape exonerations where racial data was available, black men were *falsely convicted* of raping white women. “The most obvious explanation for this racial disparity is probably also the most powerful,” the study says. “White Americans are much more likely to mistake one black person for another than to do the same for members of their own race” (Liptak, 2004).

When we talk about incarceration, we need to be clear that although there has been a dramatic increase in the number of women who are incarcerated, and they are disproportionately African American, incarceration can only be characterized as a phenomenon that is shaped by *race and gender*. Thus, we will turn our focus to the impact of incarceration on African American men and their families. Because the primary impact of incarceration on African American women is the impact on their children, we will return to that discussion later in the chapter.

The Effects of Incarceration on the Lives of Young African American Men

Taking a closer look, we see that not only do African American men make up a disproportionate percentage of the prison population, but this is exaggerated at particular age categories: specifically young men aged 18–34 who are at the height of their economic productivity and family involvement. Nearly 10% of all African American men aged 25–29 are incarcerated in the prison system. This statistic does not include those African American men who are in local jails, either awaiting trial or serving sentences less than 1 year in length, nor does it include those African American men under custodial supervision: those on parole or probation.¹⁴ (For a detailed table by race, gender, and age, see Appendix K.)

These are young men serving lengthy sentences primarily for drug-related crimes.¹⁵ They enter the state and federal prison system, prisons like Parchman in Mississippi, Angola in Louisiana, or Sing Sing in New York, at the prime of their economic and reproductive lives, and when they emerge, they will be behind in these life stages if not aged out of them entirely. When the rest of American young men are finishing school, starting careers, earning seniority at work, and marrying and having children, these men are in prison, their human capital decaying.

If they are released, they enter the labor force a decade after their peers, which will have irretrievable consequences on their lifetime earnings and on their retirement savings—if they are able to accrue any at all. In addition, these men—who reflect the prison rather than the jail population—if they are released, return back to their communities with a felony record, which as noted by Pager (2003), is devastating to their employment prospects. In addition, in most states, these men are either temporarily or permanently disenfranchised, and by not being able to vote, they lose all political power (Mauer, 2002; Uggen & Manza, 2002). Across the lifecourse, fully 25%–33% of African American men will be in the criminal justice system.¹⁶

Due to harsh new sentencing guidelines, such as “three-strikes, you’re out,” a disproportionate number of young Black and Hispanic men are likely to be imprisoned for life under scenarios in which they are guilty of little more than a history of untreated addiction and several prior drug-related offenses. . . . States will absorb the staggering cost of not only constructing additional prisons to accommodate increasing numbers of prisoners who will never be released but also warehousing them into old age. (Haney & Zimbardo, 1998, p. 718)

250 African American Families

Finally, many people talk about the “fact” that there are more African American men in prison than in college, and the data on this topic are complex. Indeed, as the data in Table 9.2 show, there *are* more African American men in prison (1 million) than in college (less than 500,000). In contrast, with only 600,000 white men in prison and 3.5 million in college, there are 5.8 times as many white men in college as in prison. But perhaps the comparison that is more relevant is the relationship between prison and college for young men aged 18–24.

Table 9.2 American Men Aged 18–24 in College and in Prison

	<i>Population Total</i>	<i>In College</i>	<i>In Prison</i>	<i>Ratio</i>
White	10,739,000	3,522,392 (32.8%)	125,700 (1.1%)	28:1
Black	1,885,000	469,000 (24.9%)	179,500 (9.5%)	2.6:1

NOTE: Data for this table were taken from various portions of the 2000 U.S. census.

When we compare data on these young men, what we find is that although African American men in this age group are more likely to be in college than in prison, there is a substantial and significant race gap in the ratio of men in college to men in prison. Whereas African American men are 2.6 times more likely to be in college than in prison, white men are 28 times more likely to be in college than in prison—a 10-fold difference in the ratio.

Education and race also work together to shape the likelihood that one will end up in prison. For example, 11.5% of all African American men between the ages of 20 and 40 were in prison in 2000, but 32.4% of African American men of the same age who had dropped out of high school were incarcerated (Western, 2006). Thus, the probability that an African American man will go to prison is increased threefold if he is a high school dropout.

What are the consequences of this on the African American community? The consequences are far-reaching, especially the political consequences. If 25%–33% of a population is disenfranchised, the whole community loses its already limited access to the political structure. The economic consequences are endemic. Those who emerge with a felony record face chronic unemployment and underemployment. Those who can find a job nevertheless enter the labor market with depleted human capital. They emerge from prison as constantly evolving technology has rendered what skills they have obsolete. They become, to use Professor Wright’s term, *unexploitable* (see also Pager, 2003).

Those who emerge in the best of possible situations, with no felony record and with human capital still intact, nevertheless enter the labor market behind their same-age peers. This affects layoffs, seniority, wages, and retirement accumulation. And all of this assumes that these ex-cons can even obtain a job, given that they will have a several-year “gap” in their work history.¹⁷

We have already noted, in Chapters 3 and 4, that incarceration is terribly disruptive to family life. It significantly reduces the probability that men will marry, and it removes them temporarily, if not permanently, from their relationships with their children. The fact that men with a felony record face such significant barriers to employment means that even when they do form stable, long-term relationships, they are often literally handcuffed in their ability to provide financial support for their families. Finally, as we discussed in Chapter 5, they are far more likely to be involved in intimate partner violence. Thus, the consequences of incarceration on the African American family are devastating. How we can better understand the overincarceration of young African American men and the wider consequences of incarceration on their families and communities is a question that sociologists and others have been asking but for some reason have not paid a lot of attention to.¹⁸

Loss in the African American Community: Economic Costs

The economic and family consequences of incarceration affect more than just the individual and his or her family. As a result of hyper-residential segregation (Massey & Denton, 1993), communities of African Americans (either rural or urban) will, by default, have higher rates of male incarceration than white communities. As noted by Jonathan Kozol, in Mott Haven, New York, half of all the children in the local elementary schools routinely make visits to prisons like Rikers Island to visit their fathers (Kozol, 2001, 2005).

Furthermore, incarceration has a social class component as well. The 25%–33% of African American men who are incarcerated in their lifetimes are not spread evenly across all social class categories. The rates are much lower among middle- and upper-middle-class and professional African American men, and they are much higher among low-income and poor African American men. Thus, in a poor African American community, perhaps as many as 50% of the men will have been in prison. If 50% of men in a single community have been incarcerated and have felony records, then half the families in this community will face the consequences of their chronic under- and unemployment. This produces a situation in which poverty is far-reaching. With little human capital, entire communities will struggle just to have enough income to survive, and there will be little to no chance of owning homes or establishing businesses in the community, thus

leaving the entire community vulnerable to other oppressive forces such as slum lords and the requirement to leave the community to find work.

Loss in the African American Community: Human Capital

A major part of the prison problem is that an enormous amount of human capital is lost with the incarceration of African American men during their most productive years. These men learn few transferable skills while they are in prison, and when they are finally released, they are useless to themselves and to others. Becker (1975) provides a working definition of human capital:

Schooling, a computer training course, expenditures of medical care, and lectures on the virtues of punctuality and honesty also are capital. That is because they raise earnings, improve health, or add to a person's good habits over much of his lifetime. Therefore, economists regard expenditures on education, training, medical care, and so on as investments in *human* capital. They are called human capital because people cannot be separated from their knowledge, skills, health, or values in the way they can be separated from their financial and physical assets. (p. 1)

One of the most obvious and devastating outcomes of incarceration on human capital is seen in the labor market. Protected by law, employers are allowed to ask prospective employees if they have an incarceration record. Although the inquiry of a felony record is legally justified, in some states and in some industries, we note that employers can also ask about misdemeanor records as well as arrest records (with no conviction). In order to examine the impact of felony records on employment (Mukamal, 2004), Pager (2003) designed an experiment to test the effect of race and incarceration history on the likelihood of getting a "call back" after submitting a job application (the details of her research design can be found in Chapter 7). What she found was terribly disturbing.

In her study, which included only men, whites were more likely than blacks to be called back for an interview regardless of incarceration history. And white men without a felony were, not surprisingly, the most likely to be called back of all groups. But the shocking finding from her research is that whites *with* a felony record were more likely to be called back than African Americans *without* a felony record (see Figure 9.4). Less than 5% of African American men with a felony record were called back (compared to 15% of whites with a felony record). Incarceration is problematic for anyone, but the effects are devastating on the employability of African American men.

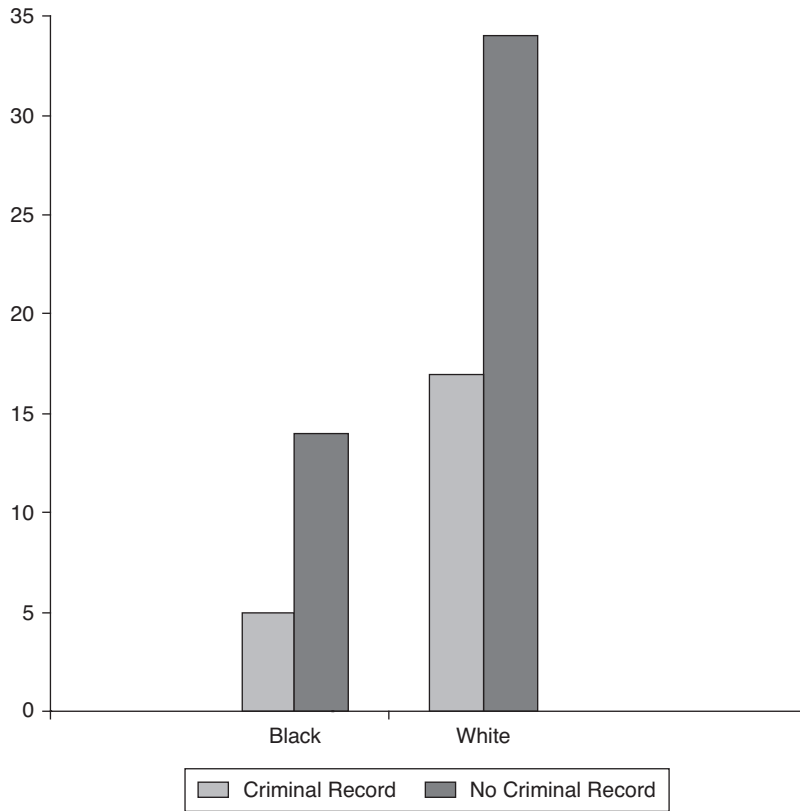


Figure 9.4 The Relationship Between Race, Criminal Record, and a Callback for a Job

SOURCE: Pager (2003).

We illustrate the effect of incarceration on employment with the case of a man with whom we work, Mr. Darryl Hunt.

An Illustration: The Case of Darryl Hunt

One case from the South is especially illuminating. Darryl Hunt was convicted in 1984 of the rape and murder of a white female employee of the afternoon newspaper *The Sentinel* in the city of Winston-Salem, North Carolina.¹⁹ The case against Mr. Hunt is precisely the kind that was built on the myth of the black rapist (Davis, 1983) that we outlined earlier. The rape-murder divided the southern city, as expected, and the racial division between African Americans and whites continues in the early 21st century.

After spending 18 years in prison for a crime he did not commit, Darryl Hunt was exonerated by the governor of North Carolina in February 2004. Exoneration is unique, as compared to a pardon or an overturned conviction, in that it is based on absolute innocence. After many years of struggle in the courts, in 2003, a judge finally considered the results of a DNA analysis that originally had been conducted a decade earlier. The DNA analysis was conclusive: Mr. Hunt was excluded with 100% accuracy from the DNA found at the scene. Furthermore, after the DNA was compared to a list of convicted felons in North Carolina, a perfect match identified the rapist and murderer: a man named Willard Brown who was incarcerated at the time of the analysis. (He has since been tried and convicted of the rape and murder for which Mr. Hunt served more than 18 years in prison.)

In a talk Mr. Hunt delivered to our classes and in response to a question from one of the students, Hunt stated that no one would hire him, even though he is now (officially) publicly not guilty. Mr. Hunt has no felony record. Yet despite this, he still cannot find a job. He says that when asked about his employment history for the previous 18 years, he has to acknowledge that he was in prison. From the perspective of the employer, it seems not to matter that he is innocent, that he has no felony record, only that he has been in prison. His attorney of record for all the 18 years he was incarcerated, Mark Rabil, says that the only way Mr. Hunt can start over is to move away from the South. This case illustrates the real impact of Pager's (2003) study, that although the felony itself is a barrier to employment, incarceration or even the perception that one has been (or will be) incarcerated also limits the employment of African American men, especially those in the working class.

What is unique and interesting in this case is both the fact that Hunt is not guilty and the years of life lost from his teenage years to adulthood. As we noted above, one of the most tragic outcomes of the overincarceration of African American men is that they miss out on realizing their own personal goals and growth. This loss is great in that not only does Hunt fall behind his age cohort in education and training for specific job-related skills, but also the ever-changing world of technology, the Internet, the laptop computer, ATM machines, and all advances in our society since the 1980s and 1990s have passed by him. His family lost their son for 18 years of his life. Although he married in prison and now lives with his wife April and her children, he lost out on the opportunity to start a family in the ways that most Americans believe they have a right. This example is a good illustration of how individuals, families, and communities can lose human capital at the onset of involvement in the criminal justice system.

Social Capital

Related in many ways to the human capital loss is also the loss of social capital. The loss of social capital to the African American community and to African American families is immense. We employ a definition of social capital offered by Harvard political scientist Robert Putnam (1995):

Social capital refers to connections among individuals—social networks and the norms of reciprocity and trustworthiness that arise from them. In that sense social capital is closely related to what some have called “civic virtue.” The difference is that “social capital” calls attention to the fact that civic virtue is most powerful when embedded in a sense network of reciprocal social relations. (p. 67)

These very important “reciprocal social relations” are lost when African American men are sent to prison. We illustrate this loss through the words of inmates with whom we’ve met as well as with a thought exercise based on our home state: North Carolina. We begin with the perspective of an inmate.

Twice, during the summers of 2003 and 2005, we taught a course in which we take 20 students on a 2-week, off-campus course through the Deep South. A significant part of the course is a discussion of social justice in the South. Central to this discussion is a visit to the Mississippi State Penitentiary at Parchman. “Parchman Farm” is located right in the heart of the Mississippi Delta. Parchman is a 20,000-acre men’s prison with the capacity to house 6,000 inmates. It holds all death row inmates in Mississippi and has executed prisoners using a roving electric chair, a notorious gas chamber, and now by lethal injection. Parchman was founded more than 100 years ago on the Parchman family plantation and is entirely self-sustaining. The inmates sew all of their own clothes and bedding, they make all of the tack and saddles for the horse patrol, and they grow all of their own food, including corn, okra, hogs, and, more recently, catfish. Because Parchman is 85% African American and its population has historically fluctuated with the labor needs of the agricultural season, it is often described as a plantation (Oshinsky, 1997).

While at Parchman, we and our students met with inmates and learned lessons firsthand from prisoners doing a stretch of time that is unimaginable. Walter Lott spoke to our class, and in his discussion, he made it clear that his life was ruined from the first day he was sent to Parchman. The lives of his family members were also ruined.

Walter has been imprisoned in Parchman since he was 19 years of age. When we met him the first time, he was age 38 and had been incarcerated for nearly 20 years. He began by telling the class that he was convicted of

strong armed robbery, which he admitted he committed while strung out on crack. Walter, who is African American, had also been convicted of raping a white woman, although as with other cases we have discussed in this chapter, he and several staff at Parchman contend that this conviction was based on a “confession” that was beaten out of Walter by the local police. We include this detail in order to reinforce the argument made earlier that myths and beliefs about African American men influence in significant ways their experiences with the criminal justice system and incarceration.

After telling the class why he was there, he told of the inhuman treatment and conditions inside Parchman. Walter, a male, was turned into a “female bitch” by stronger males in the prison population, was even “sold” for bounty such as cigarettes—Parchman has a policy whereby prisoners cannot have money—and made to perform oral and anal sex with whomever made the purchase, regardless of whether Walter consented or not.

When we met Walter during the class visit, he was working in the Parchman chapel and thrived on his position of spokesman to groups like our own. When we met Walter for the second time, he had lost his living space as a result of reorganization in the cell blocks. This reorganization resulted in a structural reduction in his privileges.²⁰ His connections with prison officials, a form of social capital on the inside, are his *only hope* for getting reassigned and having his privileges reinstated. Thus, for inmates, social capital is as important on the inside as it is on the outside.

Social capital is one of the primary factors necessary for successful reentry (Mukamal, 2004). For many inmates like Walter, who have no social support on the outside, reentry to the free world can be as daunting as the thought of entering prison. In the summer of 2005, Linda McIntyre, a Parchman Farm official (Reception Center Administrator and tour guide), told us that Walter had lost his bid for the 11th time to be paroled. She also said that Walter, now an adult male, was afraid of leaving Parchman because he did not know how to live on the outside. This is akin to the fictitious character Brooks in the film *Shawshank Redemption*; Brooks is paroled after a long time in prison, and shortly thereafter he hangs himself in a halfway house because he was very unsure of how to make it outside of the institutional life to which he had become accustomed.²¹

Furthermore, all of Walter’s family members (mother, father, sisters, and brothers) either are dead or have disowned him and severed contact with him. He has no social support in the free world and acknowledged during our visit in 2005 that he will probably die at Parchman, and because he has no family on the outside to claim his body, he will be buried inside the prison he entered at age 18.

It should be clear that an extensive social capital network is necessary for survival inside prison; it is also the case that the physical relocation of these

men from their own communities to other communities, often far from home, breaks their social networks and renders them alienated and unable to connect with others in their network groups and families on the outside.

*Social Capital In and Out: An Illustration
From North Carolina*

North Carolina provides several interesting examples of social capital, and because we live in North Carolina and are familiar with the geography, we chose it as our illustration.

Maintaining relationships with family and friends on the outside is one of the major predictors of both surviving incarceration and reentering the free world successfully (Fogel, 1993; Fogel & Martin, 1992; Houck & Loper, 2002; Mukamal, 2004). Therefore, in order to better understand some of the barriers and struggles faced by inmates and the families they leave behind, we designed a “thought” exercise in which we analyzed the racial distribution of North Carolina counties, the location of prisons, and the travel distance between them. Like many other southern states, North Carolina is racially diverse as a whole, but the racial composition of individual counties varies from less than 10% African American to more than 65% African American.²² Similarly, prisons are not equally or randomly distributed across the various counties or regions of the state. Analyzing the race/ethnic distribution by county and comparing it to rates of incarceration by county, we see that the “blackest” counties have the highest rates of incarceration by far, and the “whitest” counties have the lowest rates. Incarceration rates are three to five times higher in the “blackest” counties than they are in the “whitest” counties (see Figure 9.5).

The relationship between incarceration rate and prison construction is, however, far more complex (see Figure 9.6). Each of the counties with a relatively high (25%–65%) black population has prisons. What is more interesting is that several prisons, including some of the larger institutions housing 400–1,174 inmates, are located in the “whitest” counties (2%–10% black) with the lowest rates of incarceration (115–242 per 100,000 residents). This suggests that in North Carolina, as in other states, inmates are required to serve their time outside of their communities of origin.

In North Carolina, this may mean taking an individual from the eastern, coastal region of the state and relocating him or her to the western mountain region for the term of his or her incarceration. For those not familiar with the geography of this region, this may amount to a 6- to 7-hour drive (325 miles) or a bus ride. This is the thought exercise. We decided to determine what it would be like for the family of an inmate who fit this description: The family lived in the eastern part of the state, and we chose New

North Carolina Incarceration Rates By County

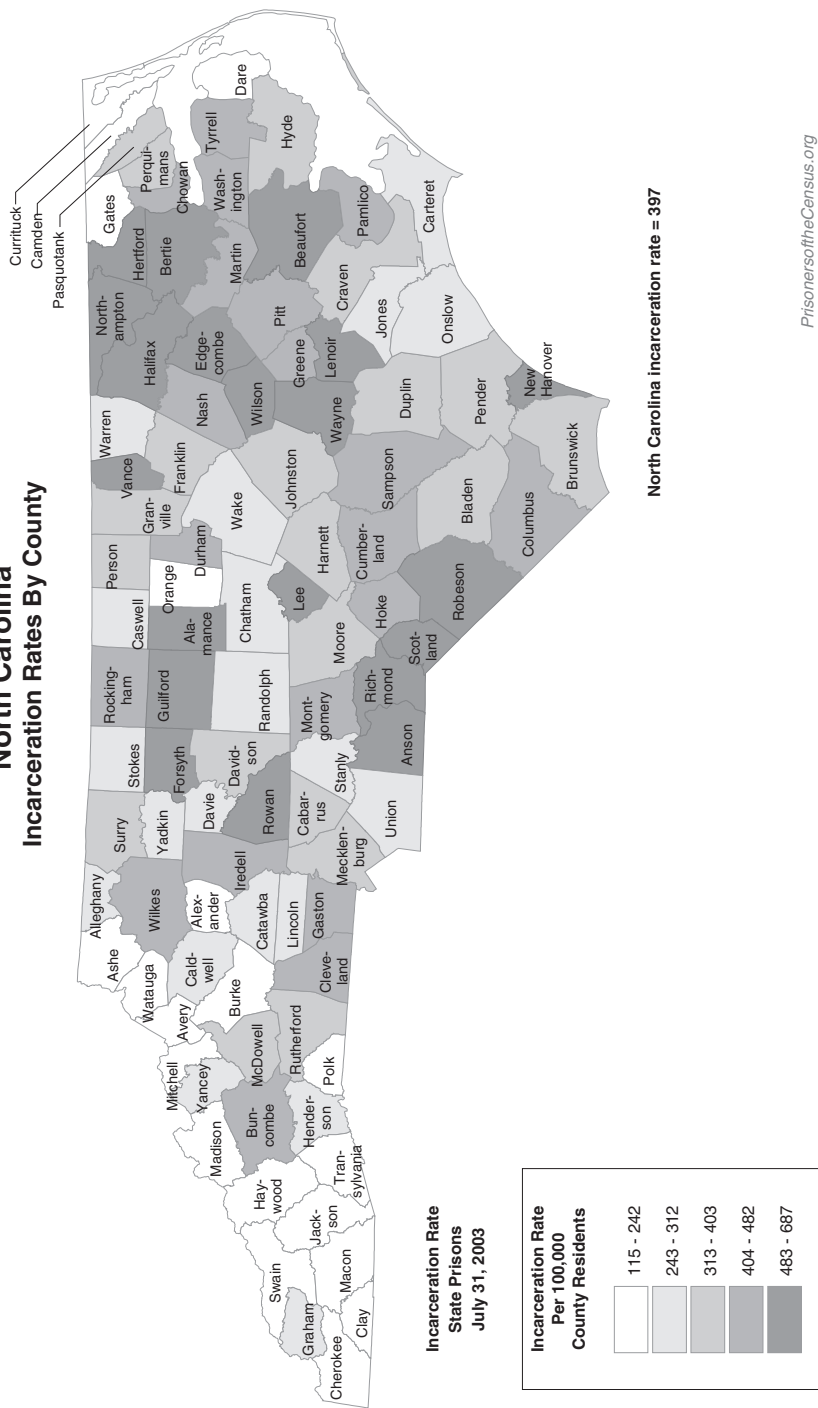


Figure 9.5 Incarceration Rates by County in North Carolina
SOURCE: Reprinted with permission of Rose Hoyer and Prison Policy Initiative, <http://www.prisonpolicy.org>

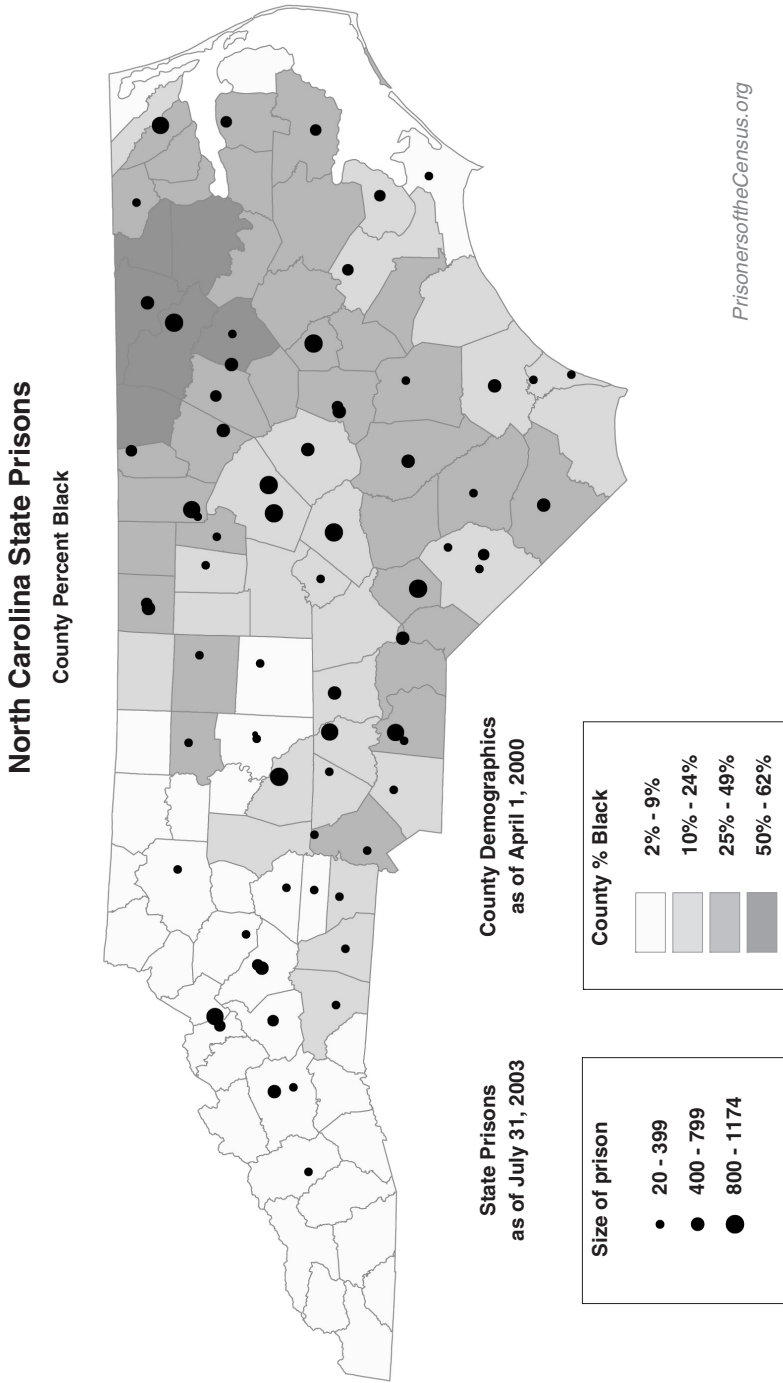


Figure 9.6 North Carolina State Prisons and Racial Composition of the County
SOURCE: Reprinted with permission of Rose Heyer and Prison Policy Initiative, <http://www.prisonpolicy.org>

Bern, North Carolina, in Beaufort County (a “black” county with a high incarceration rate and no prison). The inmate is incarcerated in Avery County, North Carolina, a mountain county, which has a prison housing 800–1,174 inmates.

As part of our thought exercise, we assumed that the family does not have access to a car (according to many inmates with whom we have spoken, this is fairly typical because so many of the incarcerated are from low-income families). In researching bus routes, we found that there are no Greyhound bus routes from anywhere in North Carolina to any town in Avery County. The closest bus was to Asheville, more than an hour away from Avery County. The travel time, by bus, from New Bern was 17 hours, and the fare was \$88 round trip, per person. Thus, it would be difficult for a family to travel from the eastern part of the state to the prisons in the western mountain region of the state. The circumstances, as we note, disrupt family life and decimate social capital for the inmates who are uprooted for their incarceration. And when inmates cannot maintain family ties, their prognosis for successful reentry is slim (Fogel, 1993; Fogel & Martin, 1992; Houck & Loper, 2002; Mukamal, 2004).

Political Capital: Census Recalculation and Felon Disenfranchisement

Incarceration also depletes political capital, both of the individual and of the community from which the individual comes. This depletion of political capital is critical both symbolically and practically. The disenfranchisement of felons has symbolic power because it takes away a right—the right to vote—that is the quintessential symbol of being an American citizen (Kerber, 1997). Second, because of the high rates of incarceration of African Americans, disenfranchisement also takes away the power of African American communities to choose their political representation at the local, state, and national levels. In fact, the outcome of the 2000 presidential election was shaped in part by felony disenfranchisement (Uggen & Manza, 2002).²³ Finally, the relocation of inmates from their home communities to prisons in other counties, in other parts of the states, changes the way that resources are allocated by the state and federal government. We begin by discussing the way that the U.S. census is affected by relocating inmates.

The Impact of Incarceration on the Census

Currently, the U.S. census, which is used every 10 years to redraw congressional districts so that each district has the same number of residents,

allows rural communities with prisons to “count” inmates as citizens. Because in most states prisons are in rural regions but the majority of inmates originate from urban communities, the relocation of inmates to rural prisons has significant outcomes for the census and ultimately for both the counties that house the prisons and the counties from which the inmates originate. This practice allows rural counties to grow and thereby get more congressional representation, whereas urban communities dwindle and get fewer representatives and fewer tax-based economic resources. Note that the inmates counted as citizens of rural communities are disenfranchised and thus cannot vote (Mukamal, 2004). Therefore, they are in no way “citizens” of these rural communities.

We choose to illustrate this last point using data from New York. New York City loses 43,740 residents annually to the districts of upstate legislators, where they are incarcerated in rural areas. Inmates have been moving up there for decades, but since 1982, all new state prisons in New York have been built upstate. As a result of census rules, rural upstate communities counting the prisoners as “citizens” are actually *overestimating* their populations beyond the 5% rule established by the U.S. Supreme Court. In fact, the population of some upstate towns consists mostly of inmates. The majority of Dannemora, New York’s population is incarcerated in the supermax prison there, and 43% of the town of Coxsackie’s population is in prison (Wagner, 2004)!

The data and map provided in Appendix L illustrate the way this process works across the entire United States. As many as 21 counties in the United States have more than 21% of their population incarcerated as recorded by the census. In four counties, that figure is nearly 33%. We note that these counties are both rural and, for the most part, southern; the poorest regions of the country are seeing improvements by further decimating urban ghettos.

And, like so many other things we have discussed in this book, this process is racialized as well. For example, the majority of inmates coming from the boroughs of New York City are African Americans who live in districts that are predominantly African American. They are relocated and counted in counties that are predominantly white. Thus, congressional representation and federal and state resources are rerouted from predominantly African American districts to predominantly white districts.

Felony Disenfranchisement

Most Americans know that there is some relationship between felony status and the political system. For example, ex-felons cannot be elected president.

But many fewer people understood the relationship between felony status and voting until the 2000 presidential election, when the issue rose to the national scene as part of the voting debacle in the state of Florida that resulted in the outcome of the election being determined in the U.S. Supreme Court.

It is not surprising that most Americans do not know much about the relationship between felony records and voting because the disenfranchisement laws actually vary tremendously from state to state. All but two states (Maine and Vermont) have some sort of restrictions on voting for people with felony convictions. The restrictions vary from (a) a restriction on voting while incarcerated (12 states) to (b) restrictions on voting while incarcerated and/or on parole (24 states) to (c) a lifetime ban on voting for all convicted felons (12 states; Mukamal, 2004). This becomes even more complex because some states, including seven of the states that impose a lifetime ban on voting, have a process of restoration that can be invoked at a later point in time. In some states, this process is easy and straightforward, and in others, it is a process that is nearly impossible to navigate. For example, in North Carolina, where felons are banned from voting until they complete their entire sentence (including parole and/or probation), the Department of Corrections supplies felons who are being discharged with the information about reinstating their right to vote. (In North Carolina, all that is required is for the ex-felon to re-register to vote.) In other states, the process is lengthy and involves filing paperwork at the state's Department of Corrections.

Following the 2000 presidential election, which brought the disenfranchisement issue to national attention, the Legal Action Center surveyed local board of election officials and found that in many states, the voting officials did not understand the laws in *their own states* (Mukamal, 2004). This was the problem in Florida. Many of the voters who were denied their right to vote in the 2000 presidential election were ex-felons whose rights had been restored in another state, but whose restoration was not being recognized in Florida despite the fact that this is illegal. Much of the confusion occurred at local polling places, where board of elections officials did not understand the law (Mukamal, 2004).

How important was the disenfranchisement debacle in Florida in 2000? Professor Chris Uggen did an analysis in which he first identified the demographic characteristics of those people *wrongly disenfranchised* and then examined the previous voting patterns for these groups. By extrapolating the voting records on top of the election outcome, his research demonstrates that had African Americans who were wrongly disenfranchised in Florida in the 2000 presidential election had their right to vote restored and recognized, the outcome of the election would have been clearly in favor of Vice President Gore (Uggen & Manza, 2002).²⁴ Thus, the consequences of felony

disenfranchisement are significant and affect the lives of all Americans. Regardless of one's opinion regarding felony disenfranchisement, it is clear what a powerful policy it is.²⁵

Other Bans—Social Services

In addition to the disenfranchisement and barriers to employment that ex-felons face, as part of the 1996 TANF reform (which we discussed at length in Chapter 8) and the changing drug laws of the 1980s and 1990s, a series of bans was imposed on ex-felons that prevents them from accessing many of the social programs that provide basic-level support. Proponents of these bans argue that they work as an incentive to keep young people out of the kinds of trouble that will result in a felony, with the primary focus here being involvement with drugs. Opponents of these bans argue that denying ex-felons, particularly individuals with felony drug convictions, access to social welfare programs that provide housing, income support, and educational support amounts to stacking the deck against people who, without these support programs, will not be able to successfully reenter the free world. They argue that this contributes to the revolving door that now characterizes prisons.

Similar to the disenfranchisement rules, the bans on social welfare programs vary from state to state. Our intent here is to paint a broad picture of the bans, and we encourage the interested reader to visit the Web site of the Legal Action Center (<http://www.lac.org>) and obtain their report for a more detailed understanding of the bans as they are imposed across the various states.

Employment Bans

As we showed earlier, Pager's (2003) work confirms that a felony record creates an enormous barrier to employment. This is especially true for African American men. In addition to the discrimination they face with potential employers, they also face bans on certain types of jobs and employment certificates. Mukamal's (2004) research notes that

employers in most states can deny jobs to people who were arrested but *never convicted* of any crime. . . . Employers in a growing number of professions are barred by state licensing agencies from hiring people with a wide range of criminal convictions, even convictions which are unrelated to the job or license sought. (p. 10)

To make matters worse, Mukamal notes that some of the licensing bans apply to trades that inmates are taught in prison as part of rehabilitation

programs. For example, she notes that many prisons offer the chance to certify in barbering, but most states ban individuals with a felony record from holding a barber's license (Mukamal, 2004)! Thus, the disconnect is between the skills that prisons teach to inmates and the jobs they will be able to obtain once they reenter the free world. And as we have noted, barriers to employment are one of the key factors related to recidivism (Mukamal, 2004).

Driver's License

Another outcome of the reformation of drug laws in the 1980s and 1990s was a law that allowed the federal government to deny highway funds to any state that refused to impose a minimum 6-month revocation of the driver's licenses of individuals convicted of a felony drug offense (Mukamal, 2004). Although 32 states have modified this law to offer restrictive licenses that allow drug felons to travel to work, school, or treatment programs, 18 states do not. Four states require that the revocation of the license last beyond 6 months (Mukamal, 2004). Clearly, driving restrictions have a significant impact on a former inmate's chances of getting and holding a job. In fact, the literature on welfare notes that one of the keys to a successful transition from welfare to work is having reliable transportation (Edin & Lein, 1997).

We assume, then, that the same applies to successful reentry. Thus, this driving restriction is one more barrier facing drug felons who are looking to turn their lives around. Furthermore, we note again that this specific restriction does not apply to felons convicted of violent or heinous crimes such as felony rape, murder, or child molestation. So, as we think about these contradictions, we wonder what the purpose and intent of the restrictions are really about.

Cash Assistance, Food Stamps, and Public Housing

In Chapter 8, we summarized the ban that individuals with a drug felony face with regard to receiving cash assistance and food stamps and living in public housing. The lifetime bans that are imposed in the majority of states pose significant barriers to the successful reentry of drug felons, especially women with minor children.

Student Loans

Recently, the system of higher education assistance that was available for inmates was dismantled by a key funding decision.

The Higher Education Act of 1998 makes students convicted of drug-related offenses ineligible for any grant, loan, or work study assistance. This federal

barrier cannot be lifted by states. *No other class of offense, including violent offenses, sex offenses, repeat offenses, or alcohol-related offenses, results in the automatic denial of federal financial aid eligibility.* (Mukamal, 2004, p. 18, emphasis added)

This single act completely dismantled the opportunities for inmates as well as ex-convicts to pursue any postsecondary education. Research on wages, the racial and gender wage gaps (which we discussed at length in Chapter 7), welfare to work (which we discussed in Chapter 8), and recidivism all point to education as a key factor in eliminating inequality (Edin & Lein, 1997; Mukamal, 2004; Padavic & Reskin, 2002). Higher education leads to better jobs and higher wages, it keeps people out of poverty, and it is closely tied to reducing recidivism. This ban, then, stands as yet another barrier to the successful reentry and reintegration of drug felons into their families and communities. Proponents of this law argue that it prevents drug users from using student loan monies to feed their drug habits.

Opponents argue that it affects millions of incarcerated men and women and significantly reduces their possibilities for successful reentry. We wonder how many more times we need to pose the question: What exactly is the desired outcome of this law? And why does it target drug offenders and not violent offenders? Because education is a key component to any rehabilitation program, this law seems to undermine any rehabilitation efforts in which prisons engage.

We conclude this section by asking what chance African American families have of surviving the incarceration of one of their members, mothers and fathers, when they face such serious barriers to reentering the free world and reintegrating into family life? Ex-convicts face barriers to employment, including bans on licensure, bans on the receipt of cash assistance and food stamps, disenfranchisement, driving restrictions, bans on public housing, and bans on obtaining funding for higher education. Although these bans vary from state to state, the one constant theme is that all of the barriers and bans are the *most* severe for drug felons. And because a high percentage of African Americans are incarcerated for drug offenses, the impact on African American families is nothing short of devastating. Thus, we turn to an examination of a disturbing new trend: the incarceration of men and women who leave minor children behind.

Parenting From Behind Bars and the Adverse Effects on Children

Along with the precipitous rise in incarceration in the past 20 years has been a steady rise in the number of female inmates, and with that a dramatic

rise in the number of mothers who are incarcerated and who leave minor children at home. We begin with some statistics.

Statistics on Parents

Both male and female inmates can be and are parents. Approximately 75% of women who are incarcerated in jail and in state and federal prisons are mothers of minor children. Incarcerated mothers average 2.11 children under the age of 18 (Greenfeld & Snell, 1999). Males serving time in state prisons reported that they have nearly 11 times as many minor children as women serving time in state prisons, and 40% said they had lived with the children prior to entering prison. Males in federal prison had nearly 15 times the number of minor children as reported by women in federal prison, and more than 80% of men with these young children reported that they had lived with the children prior to entering prison (Greenfeld & Snell, 1999). About two thirds of women in state prisons and half of women in federal prisons who had young children had lived with those children prior to entering prison (Greenfeld & Snell, 1999; Mumola, 2000).

Statistics on Children

An estimated 2.8% of all U.S. children under age 18 have at least one parent in a local jail or a state or federal prison. About 1 in 40 children have an incarcerated father, and 1 in 359 children have an incarcerated mother. These estimates translate into more than 1.3 million minor children who are the offspring of women under correctional sanction; more than 250,000 of these children have mothers who are currently serving time in prison or jail (Greenfeld & Snell, 1999; Mumola, 2000).

As with so many other aspects of the criminal justice system, racial disparities are profound, and losing a parent to incarceration is a burden disproportionately born by African American children.

Of the Nation's 72.3 million minor children in 1999, 2.1% had a parent in State or Federal prison. Black children (7.0%) were nearly 9 times more likely to have a parent in prison than white children (0.8%). Hispanic children (2.6%) were 3 times as likely as white children to have an inmate parent. (Mumola, 2000, p. 2)

The increasing number of women going to prison coupled with the fact that 25%–33% of African American men are in jail or prison leaves many African American children without either parent at home (Pettit & Western, 2004).

The vast majority of women in prison are mothers with children under 18 (70 percent). Almost two-thirds (64 percent) of these mothers lived with their children prior to incarceration and one-third was the sole parent living with their children. With just over one-quarter (28 percent) of children of incarcerated mothers being cared for by their fathers, most children of imprisoned mothers are cared for by other people—primarily grandmothers, but also other relatives, too. Still 10 percent of the children end up in foster care or in an agency. (Sokoloff, 2003, p. 35)

These cycles of incarceration result in prison becoming part of the fabric of family life. According to Lyke (2003),

Some children have not only parents, but aunts, uncles, sisters and brothers in the system. The family tree could be built on booking photos. “We occasionally have children, parents and grandparents locked up on different floors, all at the same time,” says Karen Pohio, community programs manager for the King County Department of Adult and Juvenile Detention.

Parenting From Behind Bars: The Importance of Visitation

One of the keys to successful reentry, as noted above, is the ability of inmates to keep in contact with their families, typically through visits, during the period of incarceration. One challenge that mothers face arises from the fact that because there are fewer female inmates than male inmates, there are fewer maximum-security prisons available for women. Therefore, women are more likely to be incarcerated far from their families’ homes (Chesney-Lind, 1998; Mauer & Chesney-Lind, 2002). More than 60% of mothers in prison are incarcerated more than 100 miles from their children, making visitation difficult, financially prohibitive, and often impossible (Bloom & Steinhart, 1993; Wolf, 2006). Furthermore, female inmates report that being separated from their children is the hardest part of their incarceration.

Previous research indicates that women who have less contact with their children reported higher stress levels during incarceration (Fogel, 1993; Fogel & Martin, 1992; Houck & Loper, 2002). Specifically, mothers given long sentences report more difficulty adjusting to prison life, and one of the key factors, in addition to the length of the term, is the distance between the prison and family members (MacKenzie, Robinson, & Campbell, 1989). This stress can translate into anger.

Because women with longer sentences may anticipate and experience few family visits over time, they may experience more anger than short-term inmates who can look forward to reuniting with their families much sooner.

This anger may be translated into higher instances of rule-breaking behavior and conflict with other inmates and staff members. (Thompson & Loper, 2005, p. 729; see also Islam-Zwart & Vik, 2004)

In contrast, both long- and short-term male inmates experience significantly higher rates of visitation and overall contact with family members (Flanagan, 1980; MacKenzie & Goodstein, 1985; Toch & Adams, 2002; Zamble, 1992). As Thompson and Loper (2005) noted, "These visits may allow long-term male prisoners to feel less isolated from the outside world and therefore experience less anger and conflict than women with longer sentences" (p. 729).

The Effects of Incarceration

The effects of incarceration on parents and their children, especially if they were living together at the time of arrest and incarceration, are devastating. As we noted in the discussion about pregnant inmates often being forced to give birth while shackled, there are no national policies for what to do with children when their custodial parent, usually the mother, is arrested and/or incarcerated. Some counties and states have policies, and others simply have guidelines. So, for example, upon being arrested, a woman may be given an hour to make arrangements for the minor children in her care, or equally likely, she will be handcuffed immediately and transported in one law enforcement vehicle to the local jail while her minor children are transported, also in a law enforcement vehicle, to the local department of social services, where they will be placed in foster care. This lack of a national policy for dealing with mothers and their children has severe consequences for both.

The effects of incarceration on parenting have long-term effects on the children. Children who have a parent who has been in prison are six times more likely to go to prison themselves (Wolf, 2006). Sokoloff (2003) notes that "50 percent of young people in juvenile correctional facilities today have a parent or close relative in prison" (p. 42).

A 1993 study found that when children were placed with caregivers during their mother's incarceration, 40% of the male teenagers had some involvement with the juvenile justice system, 60% of female teenagers were or had been pregnant, and 33% of all children experienced severe school-related problems (Conner, 2003). Thus, it is imperative that we learn more about the process of parenting from prison in order to decrease the negative impact of incarceration on mothers and the life chances of their children.

Finally, we note that in addition to the challenges mothers face in keeping in contact with their children from behind bars, legal policies may force them to lose permanent custody of their children.

Reunification laws became more punitive in 1997 under the Adoption and Safe Families Act (ASFA), which states that if a mother does not have contact with a child for six months, she can be charged with “abandonment” and lose rights to her child. Likewise, if a child has been in foster care for fifteen of the prior twenty-two months, the state may begin proceedings to terminate parental rights. However, women [inmates] are often transferred from one facility to another, thus missing important deadlines and court dates that can result in termination of their parental rights. . . . The threat of losing their children is quite real. (Sokoloff, 2003, p. 35)

Calvin’s Story For any parent, parenting in prison is complex. An inmate we met at Parchman, Calvin, is serving two 30-year sentences for drug offenses. (This is his second stint in Parchman; he previously served an 8-year sentence for his first drug offense.) Calvin is attempting to maintain a relationship with his son (his daughter, he told us, will not speak to him). He says that he used to ask his wife (now his ex) to bring the children to visit, but after awhile, he asked that she and the children stop visiting because it was just too painful for all. He described the 2-hour visit. It was awkward at first, then just as it was feeling comfortable, they were told there were only 30 minutes remaining in the visit. Those last 30 minutes, according to Calvin, were excruciating because they were spent anticipating the inevitable good-bye. Calvin, at 6 feet 5 inches and 250 pounds, was an excellent athlete, and his son has followed in his footsteps. Although he hasn’t seen his son in many years, they talk on the phone and write letters. His son will be going off to college, to Mississippi State, on a football scholarship. And Calvin beamed as he told us about an event a few months before our visit when he was able to watch his son play football for the first time. His son’s team was playing in the Mississippi State High School Championship, and the game was televised. Calvin watched his son play on a tiny black-and-white TV, and he recalled that he had to arrive at the crack of dawn in the TV room in order to be sure he controlled the remote control!

The main point in Calvin’s story is that many male and female inmates want more than anything to maintain parental relationships with their children, and yet there are many structural constraints to doing so, including the relocation of prisoners, the cost of phone calls and visits, and the likelihood that mothers in particular will lose custody of their children.

As we have noted, the effects of incarceration are especially profound on African American children, who are disproportionately likely to have a parent in prison. As many as 10% of African American children have a father in jail at any given time, and as many as 25% have a father who has been incarcerated. Clearly, then, incarceration adversely affects family life. When fathers are absent, they are not contributing economically to their

children's welfare, and it's difficult to estimate the impact of the weekly or monthly treks that children make to prison to visit their fathers. Many African American children visit a prison before they visit a library or museum. Worse, because many urban inmates are incarcerated in rural prisons far from home, some children of prison inmates may have little to no face-to-face contact with their fathers during their formative years.²⁶

Yet no national policy addresses the temporary care of these children upon the arrest of their mothers nor the transfer of custody, either temporary or permanent, during their mothers' incarceration. In addition, there are few programs that facilitate parenting from prison or reestablishing custody and a relationship after release.

The Impact of Bans on Family Life After Release

Because most individuals who are incarcerated will return home and to their communities and neighborhoods, we conclude this section by examining the barriers to reintegrating into family life. Our major focus here is on the role that bans play in this process.

Each individual ban creates a barrier to reintegration, but when considered together, the bans imposed on drug felons make it very difficult for these individuals, many of whom are mothers with minor children, to reintegrate with their families. And because the majority (59%) of all women incarcerated are incarcerated for drug felonies, the impact of these bans is widespread (Sokoloff, 2003). Therefore, let us consider an example that would be typical: an African American mother with minor children who emerges from a stay in prison with a felony drug conviction. When she emerges from serving her time, hoping to get a second chance at life and raising her children, she faces some significant barriers:

- **Employment:** If Pager's (2003) data are generalizable to women, then the prospects that she will be able to find a job are slim. Only 3% of African American men with a felony were called back for an interview.
- **Cash assistance and food stamps:** This mother will face a lifetime ban on receiving cash assistance and food stamps. Although she would be able to collect cash assistance and food stamps on behalf of her children, the total benefit to the family would be significantly reduced—by one third if she has two children—because of her ineligibility based on her felony conviction.
- **Public housing:** If she is moving back into the majority of states, she is likely to face a ban on living in public housing. Not only is she barred from renting a unit in her name, but in many cases, she is barred from living in a unit with anyone else in her family. Therefore, if her children are living with her mother (their grandmother)—which is the situation more than half the time

(60%)—she will be barred from moving back in with her family (Renzetti, 2001). This is despite the fact that housing would provide a realistic transition to reintegration.

- Driver's license: She will have her driver's license revoked for a minimum of 6 months, making it difficult to travel to a job (if she can get one); travel to the welfare office to receive the benefits to which her children are entitled; or take her children to school, child care, and other appointments, such as the doctor.
- Educational funding: This mother will also face a lifetime ban on all funding available for higher education, including Pell grants, student loans, and work study. Despite the fact that it is clear that education is highly correlated with higher earnings (Padavic & Reskin, 2002), she will be barred from the funding necessary to further her education and possibly keep her family off of welfare and out of poverty.
- Disenfranchisement: Should she live in the majority of states, she will either be permanently disenfranchised or have to engage in a lengthy and complex process to reinstate her right to vote. We note that although this may be her lowest priority, it is also the easiest ban to overcome.

What are the odds, then, that this mother will be able to successfully reintegrate with her family and not recidivate and wind up back in prison? In comparison, a serial rapist or child molester, who would face only the ban on public housing, disenfranchisement, and difficulty finding a job, would appear to have better odds at achieving this second chance than a mother convicted of possessing 5 grams of crack cocaine. The new drug laws lead to the incarceration of nearly 60% of all female inmates, and 91% of the women incarcerated for drug felonies are African American (Sokoloff, 2003). Coupled with the bans that are tied directly to felony drug convictions, it is clear that the war on drugs, especially with a lack of available treatment, is *nothing short of a war on African American women and their children*.

Physical Capital

The economic benefits a prison brings to a community, except for the possible increases associated with census discrepancies, are debatable. Although a few jobs are created, prisons are actually very expensive to run. Although the government pays part of the cost of incarceration, the inmates themselves seldom contribute to the cost of their own incarceration.²⁷ They don't pay rent. They don't pay for food, and they obviously don't contribute toward upkeep and maintenance. This structure is a physical space that provides housing for the convicted but receives little in return directly from the inhabitants.

It is quite expensive to house a single prisoner in a jail or prison. Rough estimates show that it costs most states more to house a prisoner per year than to educate a citizen in college for that same year. With an average cost per year to house a single prisoner at \$23,183.69, when multiplied by approximately 2 million prisoners nationally, one arrives at the figure of \$46.3 billion per year for incarceration in the United States.

Hence, there has to be another method to pay for, again in the public or private facility, the costs of incarceration. Early on and directly after the Civil War, African American life chances were grim (Oshinsky, 1997). One could even argue that although peonage replaced chattel slavery and, after the turn of the century, newly built prisons replaced peonage, the connection is stronger than that. According to David Oshinsky (1997), the real cost to house prisoners was borne by the prisoners themselves via the "convict lease system." In this section, we explore the ways in which prison labor has evolved to the point of being part of the global economy.

Penal Capital (Prisoner Labor)

The use of prisoners to make products has changed from the days that they made license plates²⁸ for the state where the prison is located, to being deeply embedded in the production and service economy of the nation. Private commerce that used prisoners as labor has been under way for centuries in Anglo societies, dating back to the 1600s and before (Hallett, 2004). This fits with the findings of Oshinsky (1997), showing that on the backs of prison labor, postbellum capitalism flourished.

During the 20th century, penal capital moved from the raw convict leasing system characterized by Oshinsky (1997) to a service economy that mirrors the larger U.S. economy. From an economic perspective, this penal capital allows a middleman like Signature, in Washington State, which moves products such as Starbucks, to win contracts and outbid other packagers because it uses prison labor. It does not have to pay market wages, it does not pay health insurance or vacation benefits, and it does not have to worry about severance pay or layoffs.

One aspect of the prison industrial complex that has perhaps received less attention is the role that the use of prison labor plays in the postindustrial political economy of the United States in the early 21st century. Various legislation that began in the 1970s and was "beefed up" in the mid-1990s opened up the ways in which prison labor could be used in both public and private industry.

There are at least four different industries in which prison labor may be used. We will briefly summarize them, provide examples of each, and

conclude this section with a discussion of the outcomes of this form of economic production for inmates, prisons, and local communities.

Factory Work

In the case of license plates, for example, factories are set up inside the prison and inmates work for low wages, usually 40 or 50 cents an hour. The product is then shipped out to the "client." Although this particular type of prison labor has been around for a long time, it has expanded significantly in the past 5 years. Today, many states and counties have "corrections businesses" that allow them to produce goods and sell them to other state and local government agencies as well as to nonprofit organizations. For example, in Iowa, students attending public schools may very well sit at desks made by felons, and colleges such as Grinnell have purchased all of their dorm furniture from the Iowa Inmate Labor Program. In fact, Grinnell College is such a good client that Iowa Prison Industries produces a special line of furniture called the "Grinnell Group" (see their Web site at <http://www.iaprisonind.com/html/prodcat/rfdormres.asp>).

These examples make it clear that state prisons have gotten into the for-profit business of factory work. In many states, such as Mississippi, a single prison produces all of the uniforms for inmates, corrections officers, and law enforcement officers, as well as holsters and equipment for the entire state. By using prison labor to produce all of their supplies, the state is able to keep costs low for the entire Department of Corrections.

Manual Labor

The practice of partnering with the state and local Department of Transportation has also been popular for many years. As you drive along interstate highway systems, you may see inmates digging ditches, picking up trash, mowing, and doing other sorts of highway labor. As with factory labor, this form of inmate labor is expanding. Inmates now use heavy construction equipment, such as jackhammers, in various projects, including the construction of tunnels in Pennsylvania. (These same inmates managed to take the jackhammers "home" and use them to tunnel out of their home, the Western Pennsylvania Penitentiary in Pittsburgh!)

This form of inmate labor has been popular for decades because the work is often backbreaking, and it is difficult to find laborers; if the work were unionized, it would be very expensive. It is also reminiscent of, and most likely based on, the chain gangs popular in the 19th and 20th centuries, especially in the South. Many municipalities, counties, and states post significant

savings to the taxpayers by relying on inmate labor for these sorts of projects. However, this use of prison labor is not without controversy.

In communities that have recently suffered significant declines in manufacturing jobs, local residents are becoming more vocal in their critique of these practices. In a rural Iowa community, for example, critics of this practice note that inmates have “taken” the jobs of countless citizens. In a community that has seen a decline in agricultural manufacturing (meat packing), this loss of jobs is serious, and local citizens, many of whom are now unemployed or underemployed, resent the fact that jobs they could take are now being filled by prison inmates. “In the case of the state liquor warehouse, 12 workers just lost good-paying jobs to prisoners who are paid 37 cents an hour. Currently, 500 state government jobs and 190 private-sector positions are being filled by prisoners” (“Fallon Requests Info,” 2004).

Although prisons may bring some jobs into a community, especially jobs as corrections officers, this gain is offset by the fact that the inmates themselves may be competing with local citizens for jobs in the free market.

Direct Marketing to Local Communities

For much of the past century, some prisons were engaged in industries that provided goods for local markets. For example, prison farms such as Parchman in the Mississippi Delta and Angola in Louisiana have for decades targeted a portion of their prison-grown agricultural produce (mostly vegetables and, more recently, goods like catfish) to local merchants for sale and consumption in local communities.

After the laws were loosened that prohibited the direct competition between prisons and free enterprise, this prison enterprise has now expanded to include goods that are produced in factory settings. At the Eastern Oregon Correctional Institution, a medium-security state prison located in Pendleton, Oregon, that houses about 1,500 inmates, prisoners were engaged in textile factory work making the denim uniforms for all the inmates in the entire Oregon State Prison system.²⁹ The popularity of their denim grew, and they now market their clothing line, sewn in the Prison Blues Garment Factory, appropriately named “Prison Blues,” for purchase over the Internet!³⁰

At first glance, this form of inmate labor seems nothing but positive. As extolled on the Prison Blues Web site, inmates learn a marketable trade that they can take with them when they reenter the free world. Also, they keep busy during the day, and they earn some money that is used to pay for their expenses in prison as well as for financial obligations, such as child support, that they have with the state.

However, we argue that industries such as this, be they agricultural or manufacturing or service, by definition, as with public works, take job opportunities away from local citizens. For example, the economy is quite depressed in the agricultural regions of the Mississippi Delta, and the fact that the State of Mississippi, through the Department of Corrections, has a stronghold in the farm-raised catfish market means that local farmers have less of an opportunity to make a living with this agricultural commodity (Gillette, 2004).³¹

Service Sector Work

Perhaps the most recent change in inmate labor, and the one that seems to be the most controversial and disturbing, is the use of inmate labor for a variety of service sector work that is subcontracted through middlemen for some of the nation's leading manufacturers. There are estimates that in any given day, the average American uses 30 products that were produced, packaged, or sold out of a prison! Through this type of service sector work, prison industries have truly infiltrated the global market.

“Another source of profit for private companies is prison labor. Companies that use prison labor include IBM, Motorola, Compaq, Texas Industries, Honeywell, Microsoft, Boeing, Starbucks, Victoria's Secret, Revlon, Pierre Cardin” (Evans, 2005, pp. 217–218). Every year, inmates at Twin Rivers Corrections Unit in Monroe, Washington, are busy during the holiday season because inmates there package Starbucks coffee and Nintendo “GameCubes” for sale by retailers all over the nation.

Twin Rivers, part of a four-unit prison that houses mentally ill inmates, high-security felons, and participants in the state's Sex Offender Treatment Program, is also home to one of three facilities operated by Signature Packaging Solutions, one of 15 private companies that operate within the state prison system and use inmate labor to supplement their outside workforce. (Barnett, 2002, p. A7)

Prisoners are engaged in everything from making electronic cash registers for McDonald's to sewing lingerie for Victoria's Secret to packing Starbucks coffee. As noted previously, one can easily come to the conclusion that this is a positive movement in the evolution of prisons because it provides work, it teaches job skills that are transportable, and it allows inmates to earn some money while they are on the inside. However, critics, including many inmates at the Twin Rivers Corrections Unit, are skeptical of the underlying reasons for this evolution in prison industries. They do not necessarily believe it is indicative of a rehabilitative movement in prisons, but rather is driven entirely by companies seeking another way to maximize their profits.

Others suspect that DOC's motives are more pecuniary than pure-hearted, noting that by shaving nearly 50 percent off the top of an inmate's paycheck, the department slashes its own expenses while subsidizing the companies in the program, which aren't required to pay for inmates' health insurance or retirement. "They figure that if somebody's sitting around, doing their time and doing nothing, they don't make any money off them," Strauss says. . . . Richard Stephens, a Bellevue property-rights attorney, is suing DOC on the grounds that the program is unconstitutional, allows businesses that use prison labor to undercut their competitors' prices, and unfairly subsidizes some private businesses at the expense of others. . . . *Private businesses are "paying prison workers less than they're paying on the outside, but they aren't reducing the markup to the consumer" they're pocketing the profits.* Another key difference, Wright notes, is that prisoners can just be sent back to their cells whenever business goes through a lull; "on the outside, they have to lay off workers. It's much more difficult," Wright says. (Barnett, 2002, p. A7, emphasis added)

The use of inmate labor allows middle-level companies like Signature Packaging to underbid their competitors by cutting their labor costs. And prisons benefit as well because by engaging their inmates in this sort of economic production and then charging inmates for their own incarceration, they are able to keep down the costs of running the prison. Wright, an inmate at Twin Rivers, sums it up:

"They need to know that they are buying these products from a company that is basically getting rich off prisoners." Wright, sent to Twin Rivers for first-degree murder in 1987, *believes parents would be disturbed to know that their child's GameCube was packaged by a murderer, rapist, or pedophile.* "These companies spend a lot of money on their public image," Wright says, "but then they're quick to make money any way they can." (Barnett, 2002, p. A7, emphasis added)

Race, Class, and Gender Paradigm

Virtually every aspect of crime and incarceration is significantly shaped by race, class, and gender. We have examined differences in the types of crimes committed, the types of treatment by law enforcement and the criminal justice system (sentencing), as well as differences in incarceration and postrelease. Only when we are attentive to these three separate and interlocking systems of oppression can we best understand incarceration in the contemporary United States and its impact on individuals, families, and communities.

Specifically, we are arguing that the prison industrial complex and its attendant “prison industries” mimic the slave mode of production. In the end, wealthy whites (primarily men) are profiting by not paying a living wage to African American inmates (also primarily men). Thus, corporations are engaging in an exploitive labor practice, what Marx termed the *extraction of surplus value*. By not paying what the labor is worth when inmates are working farms, building furniture, or assembling products for giant multinational corporations such as Microsoft and McDonald’s, corporations make additional profits. When large corporations from Microsoft to McDonald’s engage in this practice, they also receive an unfair advantage over their competitors. Finally, we must note here that the whole scene is reminiscent of the plantation economy of 17th-, 18th-, and 19th-century America. The slaves were black chattel. They had no rights, and they were a captive labor force. All of this is the same for today’s prisoner.

Everybody knows that the nation’s prisons and jails are full of African American men. Everyone knows that 25%–33% of African American men over the life course will spend at least part of their lives in jail or prison. Yet the race, class, and gender perspective illuminates the fact that the rates of incarceration vary significantly by social class and educational attainment. Here, we add to this knowledge by discussing the outcomes for African American individuals, African American families, and African American communities.

Because African Americans are seen (viewed) as a minority group that threatens the existing distribution of economic rewards and political power, as well as public safety, the use of coercive social control (prison) has been and remains a major method of social control used against African Americans. This form of coercive social control began in the rural South after the Civil War and continues today as a significant part of mass incarceration of African American males between the ages of 15 and 35 (Myers, 1990).

We have demonstrated in this chapter that the prison industrial complex strips African American men (and women) of human, social, and political capital (Smith & Hattery, 2006a, 2006b, in press-a). Perhaps more devastating, however, is the evidence that the PIC is a modern form of slavery that has devastating consequences on the African American community as well. Families are separated, social capital ties are broken, and whole communities are left with few human and social capital resources. In fact, not only are individuals disenfranchised, but because of the relocation of inmates and census rules, communities of need see their citizens (and consequent resources) removed and transferred to other, more economically advantaged, primarily white communities.

Perhaps most important for our discussions in this book are the devastating consequences of mass incarceration on African American families. Although there are many explanations for the instability of African American families, including poverty, low educational attainment, high rates of unemployment, and social welfare programs that provide a better standard of living than minimum wage work (recall the discussion in Chapter 8), incarceration plays a major role in shaping and disrupting African American family life. Poor African Americans are more likely to be incarcerated than affluent African Americans (Western, 2006), but because of the extremely high rate of incarceration, most African Americans, of all social classes, have a family member who has been or currently is incarcerated. For example, consider the case of Rhodes scholar and literary award winner John Wideman. Professor Wideman grew up in a low-income neighborhood in Philadelphia at a time when more and more African American men were being incarcerated. Therefore, it is not surprising that his brother, whose experiences provide the basis of Wideman's book *Brothers and Keepers*, was incarcerated. Furthermore, Wideman's own son was sentenced to life in prison at age 15 for stabbing a fellow camper at a summer camp. This example illustrates the pervasiveness of incarceration for African American families: It reaches into all social classes.

African American children are born while their mothers are shackled to the bed and a guard with a pump shotgun stands watch. African American children make the journey each week or month or year to visit their fathers and mothers in prison. African American children suffer when their mothers, who have served their time, emerge from prison with a drug felony that prevents them from accessing social welfare services such as TANF and public housing that would allow them to provide at least some standard of living for their children. And African American boys grow up knowing that, by adulthood, one out of three of them and their peers will have been to prison. African American men are removed from their households, they are unable to support their children financially and emotionally, and this affects their intimate relationships. Marriage and even long-term, committed relationships are threatened by the very real possibility that they will be disrupted by incarceration. As a result, African American men and women are less likely to form committed relationships to begin with (LeBlanc, 2003).

Mass incarceration is not just a matter of racism; it is also shaped by gender and by the intersections of race, class, and gender. For example, the majority of African American women who go to prison (59%) are convicted of drug possession. We detailed the impact that drug laws have had in contributing to the mass rate of incarceration of African Americans, but also to the creation of a series of bans that make successful reentry and

reintegration a virtually unachievable goal. Recidivism is all but guaranteed. These bans on welfare, public housing, educational aid, employment, and political agency make it virtually impossible for parents being released from prison to have a second chance at life and at raising their children. Ultimately, it is the children who pay the price.

The coupling of long-term incarceration of African American women for drug possession with the bans on social services amounts to a war on African American women and their children. This war ensures, by its impact on the life chances of these children, along with the cordoning off of so many African American men in prison, that African Americans of each generation are effectively removed from competition in the labor market, political arena, and capitalist economy, thereby ensuring that the goods and rewards in these systems will accumulate only to whites. A race, class, and gender lens allows us to see the powerful connections among these systems of oppression and privilege.

Solutions

Americans have tended to view the U.S. as the guardian of the highest ideals of justice and fairness. But that is a belief that's getting more and more difficult to sustain. . . . Called into question is the very existence of an ancient liberty of which this country has until now been very proud: freedom from arbitrary arrest and detentions. (Herbert, 2005b)

While society in the United States gives the example of the most extended liberty, the prisons of the same country offer the spectacle of the most complete despotism. (de Tocqueville, 1833)

Solutions to the problem of mass incarceration come from many sources. First, we must note that we are not advocating the emptying of American prisons. Many people are incarcerated because they have committed crimes that need to be punished and/or because they pose a serious threat to American public safety. However, we note that there are many structural causes of crime that need to be addressed. We find that the primary cause is blocked access to the opportunity structure.

Throughout this chapter, we have used the theoretical framework of University of Wisconsin Professor Erik O. Wright. He argues that one negative but predictable outcome of capitalism is the need to "remove" individuals who have no skills to offer in the free labor market. He refers to these individuals as the unexploitable. They are unexploitable in the sense that labor cannot be extracted from them by employers. Increasingly, young African American men

have come to represent the unexploitable. And increasingly, according to Wright (1997), we cordon off these unexploitable into urban ghettos and prisons. The areas of cordoning off are not unrelated. When one fills an urban ghetto with uneducated people with little in the way of employment skills and one removes factories and other low-skilled work from these ghettos, crime is an almost inevitable outcome. Therefore, one of the clearest ways to address the high rate of incarceration is to develop the human capital of all children, preparing them for gainful employment, and then engage them in the kind of economic development that provides workers a way to earn a wage on which they can support their families. Although this may seem like a simple solution, it would require radical social transformation.

Perhaps the clearest way to address the issue of American's addiction to incarceration is to reengineer the way that we address drug use in our society. We are not advocating the decriminalization of drugs; we are, however, advocating alternatives to incarceration for low-level drug offenses. For example, we wonder about the collective gain in handing out 5- to 10-year sentences to individuals for the possession of 5 grams of crack cocaine. The sentences are out of line in comparison to violent crimes that often result in shorter sentences.

We also argue that drug addicts, their families, and the collective whole would benefit more by treating the addictions as health problems rather than simply locking the individuals away. Furthermore, we are highly concerned with the ways in which felony drug offenses are tied to bans on social services, educational resources, and other tools that are necessary for survival in the free world. These bans, along with a virtual dismissal of all rehabilitative services in prison, together present significant barriers to successful reentry and reintegration and virtually guarantee recidivism. Prisons become nothing more than warehouses for inmates whose greatest crime is an untreated addiction (Haney & Zimbardo, 1998). Therefore, in order to seriously address the mass incarceration that characterizes the United States and bring it more in line with other industrialized nations, we must reconfigure drug laws and the bans that follow the convicts back into the free world.

Finally, we reiterate the strong relationship between mass incarceration and race. Not only are African Americans incarcerated at disproportionately high rates, but there are serious and documented racial biases in the criminal justice system. We cited evidence for racial profiling and racial disparities in sentencing. But even more important is the relationship between sentencing guidelines and the type of crime committed. It should be obvious to all that the length of sentence will be positively correlated with the seriousness of the crime and the threat the convict poses to public safety. Although there is bound to be debate about what constitutes the worst crime or the biggest threat to public safety, we are struck by the fact that *convictions for drug offenses carry longer*

sentences than convictions for child molesting. We are further struck when we examine the racial profile of the drug offender as compared to the child molester. We posit that drug offenses receive such long minimum sentences because the convicts are disproportionately African American and that child molesters receive relatively short sentences because they are disproportionately white men. We have struggled to understand this apparent disparity when we are certain that most Americans would find child molesting to be a more serious crime that poses a bigger threat to public safety. It is only when we analyze these race and gender disparities through the lens of the race, class, and gender paradigm that these inconsistencies and illogical policies become clear. We agree with Wright (1997) that with the passing of the 20th century, and with it, the belief that genocide was immoral, mass incarceration serves the same function of removing a whole class of people from social, political, and economic life.

Notes

1. We first heard the term “incarceration addiction” in the keynote address delivered by Marsha Weissman at the University of North Carolina Law School annual Conference on Race, Class, Gender, and Ethnicity in February 2006. Therefore, we are indebted to Marsha for this term.

2. State crimes include, among many others, murder, rape, most drug charges, and burglary.

3. Federal crimes typically involve trade, fraud, or crimes that cross state lines. Perhaps the most famous federal prisoner of late is Martha Stewart, who served her sentence in Virginia.

4. We note that our discussion in this chapter will be limited to the types of jails and prisons outlined above. There are, however, at least four other types of incarceration institutions that we will not discuss: (a) immigrant detention prisons—these house immigrants detained for a variety of offenses, including simple violations of immigration; (b) military prisons—these house members of the armed forces who are convicted in the court martial procedure; (c) international prisons/detention centers that are run by the United States—most recognizable would be Guantanamo Bay, Cuba, and Abu Ghraib, Iraq; and (d) CIA secret prisons that are alleged to be run by the United States but on non-U.S. territory. Although these prisons are important, they are not the topic of discussion in this chapter.

There are several reasons why we do not address these four types of prisons. First, because all of these types of prisons are run by the U.S. government and/or the U.S. military, it is very difficult to obtain information about them. Second, because these prisons are not, for the most part, incarcerating high numbers of African Americans, they have a much less significant impact on African American families. We do note, however, that there is a great deal of overlap between the prison administrators and guards in U.S. prisons and those at Guantanamo Bay and Abu Ghraib.

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The exportation/internationalization of the prison industrial complex (PIC) is clearly seen at Abu Ghraib. The building and running of the Abu Ghraib military prison was under the direction of Lane McCotter, former director of the Utah State prison system. It was at Utah, under McCotter's watch, that prisoners were inhumanely treated, forced to be shackled to boards for days, and where prisoner Michael Valent died after spending hours nude in a restraint chair in 1977 (Butterfield, 2004). Also, former Army Spec. Charles A. Graner, Jr., plays into this exportation/internationalization of the PIC to Abu Ghraib because he was the ring-leader of the torture at Abu Ghraib, having learned his craft at State Correctional Institution-Greene in southwestern Pennsylvania. There, Granger routinely beat prisoners, often laughing while doing so (Zernike, 2005).

5. This work was originally published in three volumes in 1973, and in it, Solzhenitsyn probes the inner core of the Russian prison system, detailing the experiences of not only himself, when he was being held captive, but the experiences of almost 300 other prisoners, including women and children. The chronicle weaves the journey of how the prisoners get to the outpost of Russia by train, describes their meager food rations, and describes the work details and the psycho mind games used by the trustees to "break" them for probable return to society.

6. Goffman presented himself at a mental hospital claiming only that he was "hearing voices." He was admitted and stayed as a patient for 10 days. During that short time, even though he never again reported any psychiatric symptoms, he was diagnosed with schizophrenia, prescribed medicine (which he did not take), and treated in every other way as a patient. During his stay, he was able to observe both the staff and other patients, and based on these observations, he developed the theory of "total institutions."

7. Figures on incarceration vary depending on what types of institutions (jails, prisons, military prisons, etc.) are included in the count.

8. For a good background report on the specifics of women in prison, especially for the last two decades of the 20th century, see Chesney-Lind (2002).

9. Barbara Chasin (2004) makes this point over and over (see especially pp. 235-239).

10. We note that women who have labored and delivered wonder about this practice.

11. There is a wide literature available on racial sentencing disparities (see, for example, Mauer, 2000).

12. Although we did not speak directly to this piece of the racialization of the American prison, we note that the American prison is the most racially charged environment on earth. This is even more true if it is a maximum security prison. Based on this racially charged environment, fueled in large part by the presence of racial/ethnic gangs, many states segregate their prison populations by race. Recently, the U.S. Supreme Court ruled that segregation in the prison system violated the 1954 decision in *Brown v. Board of Education* and required that the California prison system desegregate its prison population (Gumbel, 2005).

13. Some of the worst examples of this are the cases in which white men and women who have committed a crime have blamed it on a "black man" (Glassner,

2000). For example, when Susan Smith drowned her sons in South Carolina, she appeared on TV publicly proclaiming that she had been carjacked by a black man. When Charles Stuart murdered his pregnant wife in Boston, he, too, blamed it on an intruder: a black man. This practice is so widespread that there are research reports on these racial hoaxes, and we encourage the reader to examine this topic.

14. This figure represents approximately 111,000 African American men.

15. “Expanded dramatically by the implementation of policies associated with the ‘drug war,’ incarceration rates skyrocketed by the 1980s. By the mid-1980s, entrepreneurial profit-making with convicts had reemerged—as a new explosion in the number of African American prisoners occurred as a result of the drug war” (Hallett, 2004, p. 49).

16. Still one of the best sources for these data is the work of the Washington, DC Sentencing Project (see especially Mauer, 2001).

17. We note the experiences of Mr. Darryl Hunt, a North Carolina man who was exonerated after spending nearly 20 years in prison for a rape and murder he did not commit. In both press interviews (<http://darrylhunt.journalnow.com>) and private conversations, he indicated that despite being completely exonerated, he cannot get any kind of a job. He attributes this to the fact that he has a 20-year gap on his resume, and that members of the Winston-Salem community, especially those in the white community, continue to believe he is guilty despite the exoneration based on conclusive DNA evidence.

18. One sociologist, Orlando Patterson, feels that the reason there is little work on this subject is because of the “devaluing” of African American life. See Chapter 3, “American Dionysus: Images of Afro-American Men at the Dawn of the Twenty-First Century,” in Patterson (1999).

19. The full Darryl Hunt case is available at <http://darrylhunt.journalnow.com>

20. Before Walter’s reassignment, his job as chapel assistant allowed him to leave his cell late each morning and return early, and he was housed with other inmates doing inside work. Now he is housed in a cell with inmates doing agriculture work. He is required to leave the cell much earlier each day, and he must return when they return, hot and sweaty from the fields. To those of us in the free world, these changes in his circumstances might seem insignificant. But to an inmate, these changes represent a serious deterioration in the quality of his daily life.

21. We note that this is another outcome to be expected from total institutionalization as described by Goffman.

22. For a full analysis of two of the most southern states, Alabama and Mississippi, see Hattery and Smith (in press).

23. In fact, Uggen’s research showed that *illegal* disenfranchisement in Florida changed the outcome of the 2000 presidential election.

24. Thousands of African Americans who were wrongly disfranchised filed a lawsuit, *Johnson v. Bush*, that was finally refused at the U.S. Supreme Court.

25. Although it is difficult to determine exactly why this ban was originally imposed, the Dred Scott decision set off a series of voter disenfranchisement laws, especially in the South, that were designed specifically to deny African Americans the right to vote. It is clear that the Dred Scott opinion helped pave the way for

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Florida to intentionally disenfranchise African Americans in 1868, a practice that was then continued in 1968 when Florida rewrote its state constitution. As a result, African Americans today are disproportionately disenfranchised for life in Florida (Shofner, 2001). It is estimated that 16% of the African American voting age population in Florida is currently disenfranchised (Uggen & Manza, 2002).

26. In New York, most prisoners come from New York City, but most of the prisons are hundreds of miles away in upstate New York. In a state such as Wisconsin, for example, almost 3,000 Wisconsin prisoners are housed outside the state, making it much more difficult to keep families in close contact with each other.

27. Some state and private prisons have adopted a requirement that inmates work, typically contracts they fill for private corporations ranging from Microsoft to Victoria's Secret, and the inmates are required to pay a sizeable portion of their paychecks back to the prison, effectively paying for their own incarceration. For example, Oregon enacted legislation that required that all able-bodied prisoners in the Oregon State prison system engage in productive work.

28. We note that in some states, prisoners do make license plates. Colorado, Ohio, New York, and California still have this industry inside their prisons. The point is simply that they are no longer restricted to this type of work.

29. At Parchman, inmates make all of the inmate uniforms as well as a significant portion of the law enforcement uniforms for the entire state of Mississippi DOC (Department of Corrections).

30. A visit to their Web site (<http://prisonblues.com/>) reveals that they market denim products for sale to consumers not only in the United States but also in Japan! So, Japanese consumers can now buy "Prison Blues" garments, manufactured by inmates in the Eastern Oregon Correctional Institution, over the Internet! We note that the proliferation and popularization of prison life as demonstrated by this garment line is pervasive in the music industry, made popular by hip-hop artists like 50 Cent and Snoop Dogg.

31. Catfish farming was once one of Mississippi's top agricultural commodities, grossing approximately \$255 million dollars annually. Now, all of this has changed, and as Hugh Warren, executive vice president of the Catfish Farmers of America, put it, "We're struggling right now." The catfish farmers who used to get 75 cents per pound are now down to approximately 60 cents per pound (see Gillette, 2004).